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Rules of Governmental Agencies

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 16, 1999 - Issue 16: Through	March 31, 1999
July 16, 1999 - Issue 29: Through	June 30, 1999
October 15, 1999 - Issue 42: Through	September 30, 1999
January 14, 2000 - Issue 3: Through	December 31, 1999 (Annual)

REGISTER PUBLICATION SCHEDULE 1999

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 21, 1998	January 4, 1999 *	Issue 28	June 28	July 9
Issue 2	December 28	January 8	Issue 29	July 6 ***	July 16
Issue 3	January 4, 1999	January 15	Issue 30	July 12	July 23
Issue 4	January 11	January 22	Issue 31	July 19	July 30
Issue 5	January 19	January 29	Issue 32	July 26	August 6
Issue 6	January 25	February 5	Issue 33	August 2	August 13
Issue 7	February 1	February 16	Issue 34	August 9	August 20
Issue 8	February 8	February 19 **	Issue 35	August 16	August 27
Issue 9	February 16 ***	February 26	Issue 36	August 23	September 3
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Issue 11	March 1	March 12	Issue 38	September 7 ***	September 17
Issue 12	March 8	March 19	Issue 39	September 13	September 24
Issue 13	March 15	March 26	Issue 40	September 20	October 1
Issue 14	March 22	April 2	Issue 41	September 27	October 8
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Issue 17	April 12	April 23	Issue 43	October 18	October 29
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Issue 26	June 14	June 25	Issue 52	December 20	December 31
Issue 27	June 21	July 2	Issue 1	December 27	January 7, 2000

* Monday following a state holiday.

** Tuesday following a state holiday.

*** Since the state holiday is a Monday, the deadline is Noon on Tuesday.

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January 1999 - 700 - GA-560

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED RULE

1) Heading of the Part: Welfare-to-Work Block Grant Program

2) Code Citation: 56 Ill. Adm. Code 2665

3) <u>Section Numbers:</u>	<u>Action:</u>
2665.10	New Section
2665.20	New Section
2665.30	New Section
2665.40	New Section
2665.50	New Section
2665.60	New Section
2665.70	New Section
2665.80	New Section
2665.90	New Section

4) Statutory Authority: 20 ILCS 605/46.19

5) A complete description of the Subjects and Issues and Involved: These rules specify the legislative base, needed definitions, allocation of funds, allowable programs and activities, local plan development and approval process, eligibility requirements, cost limitations, performance management measures and reporting and recordkeeping requirements for the Welfare-to-Work Block Grant Funds required by the Balanced Budget Act of 1997.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after this edition of the *Illinois Register* to the following:

Lyle Neumann
Department of Commerce and Community Affairs
Job Training Division
620 East Adams Street, S-4
Springfield, Illinois 62701
(217) 557-3654

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Fax: (217) 785-6454
TDD: (217) 785-6055
e-mail: lneumann@commerce.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses and small municipalities affected: There will be no adverse effect on small businesses or small municipalities.

B) Reporting, bookkeeping or other procedures required for compliance: Section 2665.90 of the proposed rule outlines reporting and recordkeeping requirements for the Welfare-to-Work Block Grant Administrative Agencies.

C) Types of professional skills necessary for compliance: Applicants would already possess the necessary skills for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: DCCA did not know when the rulemaking would be promulgated because it was awaiting a recommended draft from the US Department of Labor.

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED RULE

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER III: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

PART 2665

WELFARE-TO-WORK BLOCK GRANT PROGRAM

Section

2665.10 Legislative Base

2665.20 Definitions

2665.30 Allocation of Funds

2665.40 Allowable Programs and Activities

2665.50 Plan Development and Approval

2665.60 Eligibility Requirements

2665.70 Cost Limitations

2665.80 Performance Management

2665.90 Reporting and Recordkeeping Requirements

AUTHORITY: Implementing Section 46.19 of the Civil Administrative Code of Illinois [20 ILCS 605/46.19] and authorized by Section 46.20 of the Civil Administrative Code of Illinois [20 ILCS 605/46.20].

SOURCE: Emergency rule adopted at 22 Ill. Reg. 2612, effective January 16, 1998, for a maximum of 150 days; emergency expired June 15, 1998; adopted at 23 Ill. Reg. _____, effective _____.

Section 2665.10 Legislative Base

a) On August 22, 1996, the President signed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), a comprehensive welfare reform bill, under which the Temporary Assistance to Needy Families (TANF) program was established to supersede the Aid to Families with Dependent Children (AFDC) welfare program, the Job Opportunities and Basic Skills (JOBS) Training program and the Emergency Assistance (EA) program. The TANF program at Section 401(a) of the Social Security Act established the following objectives:

- 1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- 2) the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- 3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- 4) encourage the formation and maintenance of two-parent families.

b) On August 5, 1997, the President signed the Balanced Budget Act of 1997. This legislation amended certain TANF provisions of the Social Security Act and authorized the Secretary of Labor to provide Welfare-to-Work (WtW) grants to states and local communities for

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transitional employment assistance to move the hard-to-employ TANF welfare recipients into unsubsidized jobs and economic self-sufficiency.

Section 2665.20 Definitions

The definitions specified in the U.S. Department of Labor Interim Rules on Welfare-to-Work (Federal Register, 11/18/97, 20 CFR 645) are applicable.

Authorized to Work in the United States means participation in programs and activities that are limited to United States citizens, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other persons authorized by the Attorney General to work in the United States.

Chief Elected Official (CEO) means:

the chief elected official of the sole unit of general local government in the service delivery area;

the individual or individuals selected by the chief elected officials of all units of general local government in such area as their authorized representative; or

in the case of a service delivery area designated under section 101(a)(4)(A)(iii) of the Job Training Partnership Act, the representative of the chief elected official for such area (as defined in section 4(4)(C) of the Job Training Partnership Act).

Department means the Illinois Department of Commerce and Community Affairs (DCCA).

DHS means the Illinois Department of Human Services.

DPA means the Illinois Department of Public Aid.

Exceeded TANF Duration Limit means an individual who would otherwise be eligible to receive TANF assistance but is no longer receiving such assistance because the individual has reached the federal five-year limit on receipt of assistance.

GED means a certificate of General Equivalency Degree.

HHS means the United States Department of Health and Human Services.

IETC means Illinois Employment and Training Center.

Job Training Partnership Act (JTPA) means Public Law 97-300, as

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amended, 29 USC 1501, et seq.

Limited Education means an individual who has not completed secondary school or obtained a GED degree, and has reading or mathematics skills at or below grade level 8.9.

Long-term TANF Recipient means an individual who has received assistance under the TANF program for at least 30 months (whether or not consecutive).

Non-custodial Parent means a non-custodial parent of a minor child whose custodial parent is a TANF recipient and who meets the Welfare-to-Work eligibility criteria.

Pending TANF Termination means the individual will, within 12 months, become ineligible for TANF assistance by reason of a durational limit on such assistance, without regard to any exemption that may apply to the individual under Section 408(a)(7)(C) of the interim final rule.

Poor Work History means having worked no more than 13 consecutive weeks in unsubsidized full-time employment in the prior 12 calendar months.

Private Industry Council (PIC) means the council established pursuant to Section 102 of the Job Training Partnership Act (29 USC 1512, December 31, 1982).

Resident of Service Delivery Area (SDA) means participants must be residents of the SDA's jurisdiction.

Service Delivery Area (SDA) means an area comprised of one or more units of general local government designated by the Governor pursuant to Section 101(a)(4) of the Job Training Partnership Act.

Temporary Assistance for Needy Families (TANF) means a program established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193.

USDOL means the United States Department of Labor.

Welfare-to-Work Administrative Agency means the agency selected by the JTPA Private Industry Council to serve as grant recipient for Welfare-to-Work funds.

Welfare-to-Work (WtW) Block Grant Program means the Welfare-to-Work grant provisions of Title IV, Part A of the Social Security Act, as amended by the Balanced Budget Act of 1997.

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Section 2665.30 Allocation of Funds

Pursuant to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Balanced Budget Act of 1997, the following formula will be used by the Department of Commerce and Community Affairs to allocate 85 percent of the funds allotted to the State under the Welfare-to-Work Block Grant Program. Allocations shall be made on the basis of Service Delivery Areas (SDAs) designated under the Federal Job Training Partnership Act (JTPA).

- a) Preliminary Allocation: A preliminary allocation shall be made for all JTPA SDAs using the following criteria and weights:
 - 1) Excess Poverty: 50% shall be allocated in proportion to the number by which the population of the SDA with an income that is less than the poverty line exceeds 7.5% of the total population of the SDA, relative to such number of all SDAs in the State with an excess.
 - 2) Long Term Recipients: 50% shall be allocated in proportion to the number of individuals residing in the SDA who have been welfare recipients under the Temporary Assistance to Needy Families program (TANF) and/or the predecessor program, Aid to Families with Dependent Children (AFDC), for at least 30 months relative to such individuals residing in the State.
- b) Final Allocation: Pursuant to the requirements of the Federal Balanced Budget Act of 1997, in the event that the preliminary allocation for an SDA is less than \$100,000, such preliminary allocations shall be excluded from the final allocation and reduce the total amount of funds allocated by substate formula. These funds shall be added to the remaining 15% of the grant funds for projects that appear likely to help long-term recipients of TANF assistance enter unsubsidized employment.

Section 2665.40 Allowable Programs and Activities

- a) The following are the authorized programs and associated activities for the Illinois Welfare-to-Work Block Grant Program.
 - 1) Job Search/Job Readiness Program includes:
 - A) job search, which means a structured search for a job, including counseling, job seeking skills training, and information obtained individually or in a group setting; and
 - B) job readiness assistance, which consists of classroom or group activities designed to help an individual obtain and maintain employment. Under TANF, job readiness services and job search activities contain a combined service limit of four consecutive weeks, or six weeks total in a 12 month period.
 - 2) Job Placement Services Program involves the direct placement of the participant in an unsubsidized position. Allowable Activities include:

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- A) unsubsidized private sector employment, which means employment in the private sector not financed from federal or State funds; and
 - B) unsubsidized public sector employment, which means employment in the public sector not financed from federal or State funds.
- 3) Work Testing Program, which is no more than a 30-day fully subsidized trial period during which the employer can observe the WTW participant in a work setting, and the participant can test his/her job readiness skills while receiving support services and counseling. The employer is expected to hire the client upon completion. Work Testing may be repeated if necessary but participants are limited to a total of six months subsidized employment during participation in this program. Allowable Activities include:
- A) subsidized private sector employment, which means employment in the private sector partially or fully supported by federal or State funds, limited to six months in length; and
 - B) subsidized public sector employment, which means employment in the public sector partially or fully supported by federal or State funds, limited to six months in length.
- 4) Community Service Program involves unpaid service at a public or private, not-for-profit work site. Allowable Activities include:
- A) community service programs, which are unpaid work assignments with public or private, not-for-profit employers, organizations and governmental agencies; and
 - B) providing child care services, which means provision of child care services for an individual participating in a community service program.
- 5) Paid Work Experience Program involves paid, subsidized service at a public or private, not-for-profit worksite, limited to six months in length.
- 6) On-The-Job Training Program (OJT), which is training at a private or public sector worksite provided to a participant who has been referred to and hired by the employer. OJT occurs while the participant is engaged in productive work that provides knowledge and skills essential to the full and adequate performance of the job. OJT may be sequenced with, or accompanied by, other types of training such as classroom training or literacy training. OJT placements are limited to six months in length, unless participation is less than 500 hours in duration.
- 7) Post Employment Educational Program includes, but is not limited to, basic educational skills training, occupational skills training, or English as a second language training. Allowable activities include:
- A) vocational education training, which means classroom or other group training activities whose purpose is to increase or develop the vocational skills of a participant;

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- B) job skills training directly related to employment, which means individual, classroom, or other group training activities developed to help employed participants remain on the job or enable them to upgrade existing skills;
 - C) education directly related to employment for individuals with no high school diploma or GED, which means educational activities developed to help employed participants, who lack a high school diploma or GED, retain a job; and
 - D) satisfactory school attendance for individuals with no high school diploma or GED, which means satisfactory school attendance, as determined by the SDA in cooperation with the local school system.
- 8) Post Employment Job Retention Services Program, which means any post-employment services that are not educational in nature, including:
- A) work regimen acclimation, which means the process of getting a participant to understand what work he/she is to perform; who will provide instructions and work orders; the starting, break, meal and stopping times; when his/her first and subsequent paychecks will be received; procedures for leaving the work area for personal, telephone or other purposes; and other work rules not provided by the employer; stress coping, which means the application of remedies to remove or ease the personal stress experienced by participants in their work environment. This stress may be brought on by interactions with others while working, or by the participant's changed role as a parent, partner, or friend, or by the humbling experience of following orders of a boss or being hazed by other workers, or by a personal attitude brought to the workplace by the participant or another worker;
 - C) job loss intervention, which means interceding actions of arbitration and remediation with either or both the participant and employer at a time when the participant is at risk of losing or leaving his/her job or when the process of employment departure is occurring, or providing support and articulation of the learning embedded in the experience at a time immediately following a job loss occurrence;
 - D) personal support, which means the delivery of supportive services needed to remove or ameliorate barriers to continued employment of the participants. This group of actions ensures that there is no gap in service delivery to overcome personal barriers; that is, participant access to the service is not restricted, the service is the most appropriate resolution and service delivery is timely, as needed; and
 - E) job enhancement, which means activating the delivery of services, both supportive and educational, needed to

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solidify continued employment of the participant in his/her job and start the building of a foundation of advancement. This activity includes the acquisition of tools for the participant to become more proficient in his/her work or gain acceptance by his/her peers; the acquisition of skills needed to enhance work performance; and the acquisition of additional skills, knowledge and abilities for promotional opportunities.

- 9) Support Services Program, which means any support activities necessary to allow the participant to obtain or retain employment that are not provided for through the Illinois Department of Human Services, including:

- A) child care, which means client services to ensure that dependent children are properly cared for during the period of time client is in training or at work;
- B) transportation, which means services provided to a client to permit his/her participation in training or work by ensuring he/she has the ability to make the trip from his/her residence to the training/employment site and child care site if necessary, and back. Assistance may include the cost of public transportation or mileage reimbursement;
- C) other supportive services, which means services that are necessary and made available to participants eligible for training under this Act, but who cannot afford to pay for such services, to enable them to participate in a program under this Act and to aid in their retention in a job gained through participation;
- D) financial counseling, which means financial counseling services provided to clients to enable them to participate in a training program under this Act or to retain employment gained through such participation;
- E) personal counseling, which means personal counseling services provided to clients to enable them to participate in a training program under this Act or to retain employment gained through such participation;
- F) rent assistance, which means assistance provided to participants to maintain or obtain adequate shelter for themselves and their families while they are receiving employment, training or other supportive service; and
- G) substance abuse treatment, which means treatment for drug and alcohol abuse to the extent that such services are not medical and not otherwise available to the participant, such as, services performed by those not in the medical profession, including counselors, technicians, social workers, and psychologists, and services not provided in a hospital or clinic, including 24 hour care programs. Substance abuse treatment may be considered non-medical.

- b) No Welfare-to-Work Administrative Agency or sub-contractor may itself

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operate a program serving WtW clients solely to provide job readiness, placement or post-employment services.

Section 2665.50 Plan Development and Approval

- a) In order to receive an allocation as described in Section 2665.30 of this Part, each Welfare-to-Work Administrative Agency shall submit a Welfare-to-Work plan to the Department that includes the following content:

- 1) The plan shall include a description of the program design, including the following information:

- A) The plan shall include a description of the local targeting strategies to reach hard-to-employ TANF recipients eligible under the Welfare-to-Work Block Grant program and to assure that appropriate activities and services are provided to help these participants achieve self-sufficiency.

- B) The plan shall include a description of local strategies regarding:

- i) planned employment activities;
- ii) planned use of contracts with public and private providers of job readiness, placement and post-employment services;
- iii) planned use of job vouchers for placement, readiness, and post-employment services; and
- iv) planned provision of job retention, and/or support services, if not otherwise available to the individual participants receiving Welfare-to-Work services.

- C) The plan shall include a description of local policies and procedures that will govern implementation of allowable activities, including the procedures used to procure the contracts described in subsection 2665.50(a)(1)(B)(ii) of this Section, and how Welfare-to-Work funds will be used to provide necessary support services described in subsection 2665.50(a)(1)(B)(iv).

- D) The plan shall include a listing of performance goals and outcomes, expressed in measurable, quantifiable terms, that the local program intends to achieve.

- E) The plan shall include a description of how the local program will be implemented by the PIC, including the roles and responsibilities of the local entities responsible for program administration and the program's implementation target dates.

- F) The plan shall include a description of the approach, including process and timing, used to obtain and take into account consultation and coordination with substate entities such as public, private and nonprofit organizations in the development of the SDA Welfare-to-Work plan. The plan shall include either a summary description of the comments

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received, along with the names of the individuals or entities who commented, or copies of the actual comments received as an attachment to the plan.

- G) The plan shall include a description of the coordination efforts that the local DHS office and the Welfare-to-Work Administrative Agency will undertake and the role these local agencies will play in providing assessment and case management to qualified participants, regarding:

- i) identification and referral of participants; and
- ii) assessment and case management.

- H) The plan shall include coordination arrangements with DPA to identify and refer non-custodial parents meeting the WtW criteria.

- I) The plan shall include a description of strategies to prevent duplication of services and promote coordination among the Welfare-to-Work program, the local TANF program, JTPA, the local Illinois Employment & Training Centers and other employment and training programs throughout the Service Delivery Area.

- J) The plan shall include a description of strategies to promote and encourage coordination with the Illinois Department of Transportation, transit operators and other transportation providers to help ensure that the transportation needs of those moving from welfare to work are met.

- K) The plan shall include a description of strategies to promote and encourage coordination with the Illinois Housing Development Authority; public and assisted housing providers and agencies; other community based organizations; public and private health, mental health and service agencies; and vocational rehabilitation and related agencies.

- 2) The plan shall include budget information regarding the expenditure of program funds, quarterly planned expenditures and planned carry-forward, including the following information:

- A) The plan shall include a list of funds available by cost category as defined in 20 CFR 645.220, 645.225, 645.230, 645.235, including the original allocation, carry-in funds (if any), cost category transfers and planned carry-forward of funds not expected to be spent during the current federal fiscal year.

- B) Pursuant to 20 CFR 645.240 and 645.245, the plan shall include a listing of quarterly planned expenditures by cost category, including:

- i) administrative costs as defined in 20 CFR 645.235(b);
- ii) support services as defined in 20 CFR 645.220(e);
- iii) data processing expenditures as defined in 20 CFR 645.235(c)(3); and
- iv) programmatic activities.

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- b) Pursuant to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Balanced Budget Act of 1997, the following assurances must be provided for local plan approval:

- 1) The plan must conform to the requirements of the TANF Act.
- 2) The plan must conform to the U.S. Department of Labor Interim Rules on Welfare-to-Work (Federal Register, 11/18/97, 20 CFR 645).

- 3) The plan must demonstrate local coordination with activities provided through TANF (section 403(a)(5)(A)(vi)(II) of the Act).

- c) Each Welfare-to-Work Administrative Agency shall submit a co-enrollment plan showing planned enrollments (if any) into programs designed to serve different subsets of the welfare population, or used concurrently or sequentially in order to provide a series of services to individuals with specific needs. It shall further define the appropriate reasons for dual enrollment of individuals in more than one of the following programs: Illinois Job Advantage, Work First, TANF Welfare-to-Work ("85%" funds formula allocated to the Administrative Agency), TANF Welfare-to-Work ("15%" State set-aside funds), Job Training Partnership Act, and DHS Job Placement Contracts.

- 1) Where a WtW Administrative Agency has one or more subcontractors that enroll WtW clients to provide services, the WtW Administrative Agency shall collect co-enrollment schedules prepared by each subcontractor if these clients are also enrolled in another of these programs.

- 2) Where a WtW Administrative Agency enrolls and provides WtW services itself, the WtW Administrative Agency shall develop a co-enrollment plan of services for welfare recipients enrolled under WtW who are also enrolled in another of the programs listed in this Section.

- 3) If neither a WtW Administrative Agency nor its subcontractors enroll their WtW clients in another of the programs listed in this Section, only a Welfare-to-Work Client Service Declaration form is required.

Section 2665.60 Eligibility Requirements

- a) Persons eligible to receive services under the Welfare-to-Work program must meet the eligibility requirements of subsection 2665.60(a)(1) or (a)(2) of this Section.

- 1) Participants under the Long-term Targeted TANF Recipients Program must be:

- A) authorized to work in the United States,
- B) a resident of the SDA in which served,
- C) a long-term TANF recipient, or pending TANF termination due to a durational limit, or exceeding a TANF duration limit, and

- D) either:

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- i) have two of the following three characteristics: limited education, requires substance abuse treatment for employment, poor work history, or
 - ii) be a non-custodial parent of a minor child of a TANF recipient whose custodial parent meets one of the criteria in subsection (a)(1)(C). The non-custodial parent only needs to meet the criteria in subsection (a)(1)(A), (a)(1)(B) and (a)(1)(D) above as long as the custodial parent meets the other criteria.
- 2) Participants under the Long-term Dependency Characteristics Program must be:
- A) authorized to work in the United States,
 - B) a resident of the SDA in which served,
 - C) have one or more long-term dependency characteristics, as defined in subsection (a)(1)(D) above, and
 - D) either:
 - i) is a TANF recipient, or
 - ii) is a non-custodial parent of a minor child of a TANF recipient, or
 - iii) exceeded a TANF duration limit.
- b) SDAs are responsible for ensuring that participants served with WtW funds meet federal eligibility criteria. Procedures to accurately determine and appropriately document eligibility must include:
- 1) arrangements with the TANF agency to ensure that the determination is based on information current at the time of eligibility determination about whether an individual is receiving TANF assistance, the length of receipt of such assistance, and when an individual may become ineligible for assistance due to reaching a duration limit on assistance;
 - 2) determination of barriers to employment and long-term welfare dependency characteristics that may be based on information collected by the SDA or by the TANF agency no more than six months prior to eligibility determination;
 - 3) arrangements with the TANF agency to identify the non-custodial parents of TANF recipients who may be eligible for the program; and
 - 4) arrangements with the TANF agency to determine whether an individual who is not receiving TANF would be eligible to receive assistance if not for the fact that the individual had reached a duration limit on the receipt of assistance.
- c) Once an individual begins receiving WtW services, the SDA is not required to redetermine eligibility.

Section 2665.70 Cost Limitations

Pursuant to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Balanced Budget Act of 1997, the following cost limitations shall apply:

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED RULE

- a) At least 70 percent of the WtW funds allotted to or awarded to a Welfare-to-Work Administrative Agency must be spent to benefit hard-to-employ individuals, as described in Section 2665.60(a)(1) of this Part.
- b) Not more than 30% of the WtW funds allotted to or awarded to a Welfare-to-Work Administrative Agency may be spent to assist individuals with long-term welfare dependency characteristics, as described in Section 2665.60(a)(2) of this Part.
- c) If less than 30% of the funds are spent to assist individuals with long-term welfare dependency characteristics, the remaining funds shall be spent to benefit hard-to-employ individuals pursuant to subsection (a) of this Section.
- d) The limitation of expenditures for administrative purposes will in no case be more than 15% of the grant award.

Section 2665.80 Performance Management

The Department shall evaluate the overall ability of each Welfare-to-Work Administrative Agency to implement the local WtW plan described at Section 2665.50 and shall use the following performance measures to judge the success of local programs:

- a) Unsubsidized Employment Rate (UER). The UER is defined as the percent of time, measured in months, that WtW participants meet the work participation requirement of TANF due to unsubsidized employment.
- b) Substantial Earnings Rate (SER). The SER shall be defined as the percent of WtW participants who achieve a level of earnings due to unsubsidized employment equal to three times their TANF cash assistance payment, as a percent of all WtW participants.
- c) Cost Per Placement (C/P). The C/P shall be measured as the total WtW grant expenditures divided by the number of qualifying job placements (i.e., an unsubsidized job of at least 100 hours scheduled work per month).
- d) PIC-Work Participant Rate (PIC-WPR). The PIC-WPR is the sum of months eligible WtW participants are enrolled in TANF work activities (i.e., activities that count toward meeting the State TANF work participation rate) divided by the sum of months all WtW participants are enrolled in the program.

Section 2665.90 Reporting and Recordkeeping Requirements

The Interim Rule for the Welfare-to-Work Block Grant Program, issued by USDOL, provides in Section 645.240 for a reporting procedure in which there is shared responsibility at the federal and State levels. States will report financial information directly to USDOL for the WtW programs. Participant information shall be reported to DHS, which will submit this information, along with other TANF data, to HHS. To support federal reporting requirements, Welfare-to-Work Administrative Agencies must collect information from WtW participants and report this information on a monthly basis into the Department's Management

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF PROPOSED RULE

Information System. Information to be collected shall include:

- a) basic identifying information;
- b) demographic characteristics;
- c) educational status;
- d) barriers to employment;
- e) work history;
- f) labor force status;
- g) status information regarding receipt of TANF benefits;
- h) support service needs;
- i) participation in WtW activities; and
- j) grant expenditures.

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Practice and Procedure
- 2) Code Citation: 26 Ill. Adm. Code 125
- 3) Sections Numbers: 125.425
Proposed Action: Amend
- 4) Statutory Authority: Implements Article 9 of the Illinois Election Code and authorized by Section 9-15(3) of the Illinois Election Code [10 ILCS 5/Art. 9 and 9-15(3)].
- 5) A Complete Description of the Subjects and Issues Involved: Includes A-1 forms among those items for which a monetary penalty may be imposed in the event of second violations.
- 6) Will this proposed rule replace an emergency rule currently in effect?
No
- 7) Does the rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: To discourage the late filing of A-1 reports.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to the:

State Board of Elections
A. L. Zimmer, General Counsel
James R. Thompson Center
100 West Randolph Street
Suite 14-100
Chicago IL 60601
312/814-6477

or at a Public Hearing to be held on February 16, 1999 at the State Board of Elections' permanent branch office in the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois, and on January 20, 1999 at the State Board of Elections' principal office located at 1020 S. Spring Street, Springfield, Illinois. Please contact the Board's offices for verification of hearing time, room and date.

- 12) Initial Regulatory Flexibility Analysis:

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- A) Types of Small businesses affected: None
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None

The full text of the Proposed Amendments is identical with the text of
Emergency Amendments appearing at page _____ of this issue of the Illinois
Register.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Temporary Assistance for Needy Families

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Numbers: Proposed Action:
112.2 New Section

4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13

5) A Complete Description of the Subjects and Issues involved: This rulemaking "stops the clock" on the 60-month lifetime time limit for the receipt of benefits under the Temporary Assistance for Needy Families (TANF) program for certain persons who are enrolled in post-secondary education. The client must be enrolled full-time in a program leading to gainful employment in an accredited school while maintaining at least a 2.5 grade point average. For any month the client meets these criteria, that month will not count toward the 60-month limit, whether or not the client is working.

6) Will this proposed rulemaking replace an emergency rule currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
112.1	Amendment	22 Ill. Reg. 13286
112.9	Amendment	22 Ill. Reg. 13286
112.70	Amendment	22 Ill. Reg. 13286
112.72	Amendment	22 Ill. Reg. 13286
112.74	Amendment	22 Ill. Reg. 13286
112.78	Amendment	22 Ill. Reg. 13286
112.79	Amendment	22 Ill. Reg. 13286
112.80	Amendment	22 Ill. Reg. 13286
112.255	Repeal	22 Ill. Reg. 16135

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the date of this issue of

DEPARTMENT OF HUMAN SERVICES

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the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
Telephone number: (217) 785-9772

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: it was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of Proposed Amendments is identical to the text of the Emergency Amendments that appear in this issue of the *Illinois Register* on page _____.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: White-Tailed Deer Hunting By Use of Bow and Arrow

2) Code Citation: 17 Ill. Adm. Code 670

<u>Section Numbers:</u>	<u>Proposed Action:</u>
670.10	Amendments
670.20	Amendments
670.21	Amendments
670.40	Amendments
670.60	Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5, and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

5) A Complete Description of the Subjects and Issues Involved: Amendments are being made to this Part to open and close State-owned or -managed sites and establish a new restrictive Archery Hunting Zone.

6) Will this rulemaking replace any emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: There is no effect on small businesses, small municipalities and not for profit corporations.

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B) Reporting, bookkeeping or other procedures required for compliance:

None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 17: CONSERVATION

CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES

SUBCHAPTER b: FISH AND WILDLIFE

PART 670

WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

Section

- 670.10 Statewide Open Seasons and Counties
- 670.20 Statewide Deer Permit Requirements
- 670.21 Deer Permit Requirements - Landowner/Tenant Permits
- 670.30 Statewide Legal Bow and Arrow
- 670.40 Statewide Deer Hunting Rules
- 670.50 Rejection of Application/Revocation of Permits
- 670.55 Reporting Harvest
- 670.60 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. 7560, effective May 26, 1995; amended at 19 Ill. Reg. 15411, effective October 26, 1995; amended at 20 Ill. Reg. 6723, effective May 6, 1996; amended at 21 Ill. Reg. 5561, effective April 19, 1997; amended at 22 Ill. Reg. 7995, effective April 28, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 670.10 Statewide Open Seasons and Counties

- a) All regulations set forth in Section 2.26 of the Wildlife Code apply in this rule.

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- b) For Cook, DuPage, Kane and Lake counties - October 1 through the first Thursday after January 10.
- c) For all other counties - October 1 through the first Thursday after January 10, except for Champaign, DeWitt, Macon, Moultrie and Piatt counties (hereafter referred to as the Illinois Archery Restricted Zone) - October 15 through the first Thursday after January 10, closed during the period when deer hunting with a firearm is permitted as set out in 17 Ill. Adm. Code 650, except Department of Natural Resources (Department or DNR) owned or managed sites designated in Section 670.60 by an asterisk (*) shall be open to archery deer hunting without regard to firearm deer season (no firearm deer hunting pursuant to 17 Ill. Adm. Code 650 allowed).

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 670.20 Statewide Deer Permit Requirements

- a) All archery deer hunters must have a current, valid Illinois archery deer permit. Archery deer permits are available over-the-counter (OTC) from license vendors as combination permits, each consisting of one either-sex permit and one antlerless-only permit. The fee for resident archery combination permits shall be \$25-00; nonresident archery combination permits shall be \$120-00. A single either-sex archery deer permit will be available until September 1 of each year by mail only from the Permit Office. The fee for a resident single permit shall be \$15-00; a nonresident archery single permit shall be \$100-00. The permit will authorize the holder to hunt in any of the open counties of the State, on property where permission to hunt has been obtained from the property owner. For the single either-sex or landowner/tenant permit applications and other information, write to:

Department of Natural Resources
Archery Deer Permit Office
524 South Second Street, Room 210
P.O. Box 19227
Springfield, Illinois 62794-9227

- b) To obtain the single either-sex permit or a landowner/tenant permit, applicants must submit an application to the Permit Office using the official current Archery Deer Permit application form. Applications submitted on forms from previous years will be returned. Applicants must complete all portions of the permit application form. Incomplete applications and fees will be returned. Each applicant must submit a personal check or money order for his individual application. The combination archery deer permits are available from license vendors located throughout the State. Hunters purchasing archery deer permits

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must supply all necessary applicant information to the license vendor in order to properly complete the permit.

- c) Beginning dates for acceptance of applications for the single either-sex permit will be announced publicly. Archery applications received after September 1 will be rejected and the fees returned.
- d) Permits are not transferable. Refunds will not be granted.
- e) A ~~three-dollar~~ \$3.00 service fee will be charged for replacement permits issued by DNR, except that there will be no charge for permits lost in the mail. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies from this source will be deposited in the Wildlife and Fish Fund.
- f) There is no limit to the number of combination archery deer permits that an individual may purchase, but each individual is limited to one of the single either-sex permits per season.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 670.21 Deer Permit Requirements - Landowner/Tenant Permits

- a) The immediate family of a landowner or tenant is limited to the spouse, children or parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. Hunting and mineral rights leases are not valid for a tenant permit.
- c) Resident Illinois landowners who own 40 acres or more of land and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family, may apply for a free combination archery deer permit for their property only. Nonresident Illinois landowners (of 40 acres or more) are also eligible to apply for a combination archery deer permit for their property only. The fee to non-resident Illinois landowners owning 40 acres or more for a combination permit for their property only shall be \$70-00. This deer hunting permit shall be valid on all farm lands owned, leased, or rented by the person to whom it is issued. Qualified landowners/tenants who choose not to receive property-only firearm permits may receive 2 combination archery deer permits for their property only.
- d) If property is owned or rented by more than one person, only one landowner (and his immediate family) or one tenant (and his immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive deer permits.
- e) Shareholders of corporations owning 40 or more acres of land in a county may apply for one combination permit to hunt the corporation

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lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a permit by the shareholders of the trustee. If application is made for a permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant as a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder combination permit shall be free to resident shareholders, and the cost to non-resident shareholders shall be \$70.00.

- f) The application period for these permits will be publicly announced. Applicants submitting applications for a landowner or shareholder archery permit after September 1 will not be guaranteed a permit by October 1.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 670.40 Statewide Deer Hunting Rules

- a) The bag limit is one deer per legally authorized either-sex, antlered-only or antlerless-only permit. No more than 2 deer may be harvested per hunter during the archery season in the Illinois Archery Restricted Zone. All either-sex permits and antlered-only permits are subject to the following restriction: no hunter, regardless of the quantity or type of permits in his/her possession, may harvest more than 2 antlered deer during a year, including the archery, muzzleloader and firearm seasons. For purposes of this subsection, deer seasons are considered to be in the same year if their opening dates fall within the same 12-month period that begins on July 1. A hunter in possession of an either-sex permit after having harvested 2 antlered deer during a year, as defined above, may only use the permit to harvest an antlerless deer. Subject to this restriction, an either-sex permit holder is allowed to take a deer with or without antlers; and an antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. An antlerless-only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long.

- b) Recipients of the single either-sex or landowner/tenant Archery Deer Hunting Permit shall record their signature on the permit and carry it on their person while hunting. Holders of combination OTC permits shall record their name and address on the check station tag

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portions of their permit and must carry it on their person while hunting.

- c) The temporary harvest tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer. The temporary harvest tag should be attached around the base of the antler of antlered deer (antlers 3 or more inches in length), and attached to the leg of antlerless deer (<3 inch antler length, or no antlers). A permanent harvest tag will be attached to the leg of the deer upon check out at the check station. If the head/antlers are delivered to a taxidermist for processing, the temporary harvest tag must accompany them and be kept with the head/antlers while at the taxidermist. If the carcass is taken to a meat processor, the permanent harvest tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Persons delivering deer/parts of deer to a tanner for processing must supply the tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained. Hunters shall not have in their possession, while in the field during archery deer season, any deer permit issued to another person (permits are non-transferable).
- e) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 670.60 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 (General Hunting and Trapping) apply in this Section, unless this Section is more restrictive.
- b) Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that tree stands may be left unattended from September 15 through January 31 at those sites listed in this Section that are followed by a (1).
- c) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2).
- d) Where standby hunters are used to fill quotas, a drawing will be held at sites indicated by a (3).

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e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).

f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).

g) Statewide regulations shall apply at the following sites:

Argyle Lake State Recreation Area (2)

* Anderson Lake Fish and Wildlife Area (2)

Apple River Canyon State Park (2)

* Banner Marsh Fish and Wildlife Area (2)

Beall Woods State Park (antlerless deer only; hunting hours legal opening until 10:00 a.m.; check out by 11:00 a.m.) (1) (2)

* Big Bend State Fish and Wildlife Area (1) (2)

Big River State Forest (2)

Cache River State Natural Area (1) (2)

Campbell Pond Fish and Wildlife Area (1) (2)

Carlyle Lake Lands and Waters (Corps of Engineers managed lands)

Carlyle Lake Wildlife Management Area (except subimpoundment area is closed seven days prior to and during the regular waterfowl season)

Castle Rock State Park (1) (2)

Crawford County Conservation Area (1) (2)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Dixon Springs State Park (1) (2)

Dog Island Wildlife Management Area (1) (2)

* Eldon Hazlet State Park (north of Allen Branch and West of Peperhorse Branch only) (2)

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Ferne Clyffe State Park (1) (2)

Fort de Chartres State Historic Site (1) (2)

Fort Massac State Park (1) (2)

* Franklin Creek State Park (2)

Giant City State Park (1) (2)

Goose Lake Prairie State Park (tree stands not allowed; "Texas" type tripod stands allowed; antlerless deer only) (2) (3)

Heidecke State Fish and Wildlife Area (2) (3) (5)

Horseshoe Lake Conservation Area - Alexander County (Controlled Goose Hunting Area - open from October 1-31; reopens with the close of the Quota Zone goose season through statewide closing; remainder of the Public Hunting Area open during statewide season) (1) (2)

I-24 Wildlife Management Area (1) (2)

* Jubilee College State Park (2) (4)

Kaskaskia River Fish and Wildlife Area (1) (2) (except south of Highway 154 and north of Highway 13)

Kidd Lake State Natural Area (1)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Lowden-Miller State Forest (1) (2) (4)

Mackinaw River Fish and Wildlife Area (1) (2)

Marseilles Wildlife Area (closed Friday, Saturday, and Sunday in October) (1) (2)

Marshall Fish and Wildlife Area (2)

Mississippi Fish and Waterfowl Management Area - Pools 25 and 26

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

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- * Mt. Vernon Propagation Center (1) (2)
- Oakford Conservation Area
- Panther Creek Conservation Area (1) (2) (4)
- * Peabody River King State Fish and Wildlife Area (East and North subunits close November 1) (1) (2)
- Pere Marquette State Park (area east of Graham Hollow Road) (1) (2)
- Pyramid State Park (1) (2)
- * Randolph County Conservation Area (1) (2)
- Ray Norbut Conservation Area (2)
- * Red Hills State Park (1) (2)
- Rend Lake State Fish and Wildlife Area (1)
- Rice Lake Fish and Wildlife Area (2)
- Saline County Fish and Wildlife Area (1) (2)
- * Sam Parr State Park (1) (2)
- Sangamon County Conservation Area
- Sanganois State Wildlife Area (1)
- * Shabbona Lake State Park (2)
- Siloam Springs State Park (1) (2) (4)
- * Silver Springs State Park (2)
- Tapley Woods State Natural Area (2)
- Trail of Tears State Forest (1) (2)
- Turkey Bluffs Fish and Wildlife Area (1) (2)
- Union County Conservation Area (Controlled Goose Hunting Area - open from October 1-31; reopens with the close of the Quota Zone goose season through statewide closing) (1) (2)

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- Walnut Point Fish and Wildlife Area (1)
- * Washington County Conservation Area (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season) (1) (2)
- Weinberg-King State Park (2)
- Wildcat Hollow State Forest (1)
- Witkowsky State Wildlife Area (opens October 15)(2)
- h) Statewide regulations shall apply at the following sites except that hunter quotas shall be filled by mail-in drawing:
 - Beaver Dam State Park
 - Burris Habitat Area (hunter quotas filled by drawing; must have Fox Ridge site permit to be eligible)
 - Horseshoe Lake State Park (Madison County) (hunting in designated areas only; hunting will close at end of regular duck season) (1) (2)
 - Momence Wetland
 - Pere Marquette State Park (hunting in designated camp areas only; season begins the first weekday after camps close)
 - Rend Lake State Fish and Wildlife Area (designated area on refuge only, designated dates between October 1-October 31, 1996)
 - i) State regulations shall apply except that hunters must obtain a free permit from the site office. This permit must be in possession while hunting and must be returned, and harvest reported, to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.
 - Chauncey Marsh State Natural Area (permit obtained at Red Hills State Park headquarters) (1)
 - Clinton Lake State Recreation Area (1)
 - Coffeen Lake State Fish and Wildlife Area

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Des Plaines Conservation Area (closed to archery deer hunting during the site's upland game hunting season) (2)

Des Plaines Game Propagation Center (2)

* Eagle Creek State Park (4)

East Conant Field (1) (4)

Fox Ridge State Park (1)

Hamilton County Conservation Area (1)

Harry "Babe" Woodyard State Natural Area (1) (4)

Hidden Springs State Forest (1)

Jefferiet--Army--Ammunition--plant--(an--additional--\$15-fee-will-be assessed-upon-registration--additionally--wheelchair--accessible binds--are-available--and-will-be-allocated-on-a-first-come-first served-basis-until-12-noon-to-hunters-with-a-Class-P2A-disability card)--(2)

Kankakee River State Park (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season. Additionally, a limited hunting opportunity for persons with disabilities exists at the Davis Creek Bike Trail Area. Disabled hunters, as defined in 520 ILCS 5/3.1(c), may register to hunt at the site office and must sign in and out daily. Disabled hunters are required to hunt with a non-disabled partner who may also hunt from predetermined locations during disabled hunting season (the day after the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 to December 24))

Kickapoo State Park (1)

Maitino State Fish and Wildlife Area (1)

Mermet Lake Conservation Area (1) (2)

Middle Fork Fish and Wildlife Area (1)

* Mississippi Palisades State Park (November 1 through December 31) (closed during the first firearm deer season) (1)

Newton Lake Fish and Wildlife Area (check deer at site office)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT(S)

* Pekin Lake Fish and Wildlife Area (1)

Ramsey Lake State Park (1)

Sam Dale Lake Conservation Area (1)

Sand Ridge State Forest (1)

* Sangchris Lake State Park (an antlerless deer must be taken before an antlered deer is harvested) (1) (5)

Sato Field (1) (4)

Shelbyville Wildlife Management Area (1)

Site M (1) (4)

Snake Den Hollow Fish and Wildlife Area (October 1 through start of the central zone goose season)

* Spring Lake Fish and Wildlife Area (1)

Stephen A. Forbes State Park (1)

Ten Mile Creek Fish and Wildlife Area (areas designated as refuge are closed to all access during Canada goose season only) (1); Belle Rive Unit only (4)

j) Statewide regulations shall apply except that no hunting is permitted Wednesday through Sunday of the site's permit pheasant season.

Chain O'Lakes State Park (season opens Monday prior to opening of permit pheasant hunting season and closes Tuesday following the close of the permit pheasant hunting season; Tuesday--hunting hours--close-at-2:00-P.M.--and-hunters-must-check-out-by-3:00-P.M.--season reopens on December 26 till close of regular season)

Green River State Wildlife Area (1) (2)

Iroquois County Conservation Area (2)

Johnson Sauk Trail State Park

Moraine View State Park (1)

Wayne Fitzgerald State Recreation Area (no bowhunting during controlled hunts as posted at the site) (1) (2)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENT(S)

(Source: Amended at 23 Ill. Reg. _____, effective _____)

ILLINOIS REGISTER 847 99
DEPARTMENT OF PUBLIC AID
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: 148.297
Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments concerning pediatric outpatient adjustment payments governed by Section 149.297 relate to amendments that were adopted on November 25, 1998, and published in the *Illinois Register* on December 11, 1998, at 22 Ill. Reg. 21490. These recently adopted provisions regarding hospital services allow for changes in reimbursements in order to better maintain access to out patient services provided through children's hospitals. However because of two technical numerical errors in the adopted amendments that affect the calculation methodology used to determine the pediatric outpatient adjustment payments for qualifying hospitals, these proposed amendments are necessary to provide the pertinent corrections. In subsections (c)(1)(A)(i) and (c)(1)(B)(i), calculation factors have been changed from "three" to "1.3" and "one and one-half" to "1.15" respectively.

An expenditure increase of approximately \$12.2 million was the budgetary increase statement for the amendments of November 1998 and remains the current expectation on the basis of these proposed corrections.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
148.82	Amendment	December 18, 1998 (22 Ill. Reg. 21786)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or argument concerning this proposed rulemaking. All comments must

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

be in writing and should be addressed to:

Joanne Jones
Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62763

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85].

These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Children's hospitals that have a Pediatric Medicaid Outpatient Percentage greater than 80 percent during the Pediatric Outpatient Adjustment Base Period will be affected by this rulemaking. The Department is unsure whether or not any of the affected entities may qualify as small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking was Summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the proposed amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

Section	
148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services
148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.90	Heart Transplants (Repealed)
148.100	Liver Transplants (Repealed)
148.110	Bone Marrow Transplants (Repealed)
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170	Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175	Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180	Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190	Copayments
148.200	Alternate Reimbursement Systems
148.210	Filing Cost Reports
148.220	Pre September 1, 1991 Admissions
148.230	Admissions Occurring on or after September 1, 1991
148.240	Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250	Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260	Calculation and Definitions of Inpatient Per Diem Rates
148.270	Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280	Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285	Excellence in Academic Medicine Payments

DEPARTMENT OF PUBLIC AID
NOTICE OF PROPOSED AMENDMENTS

148.290 Adjustments and Reductions to Total Payments
148.295 Critical Hospital Adjustment Payment (CHAP)
148.296 Supplemental Critical Hospital Adjustment Payments (SCHAP)
148.297 Pediatric Outpatient Adjustment Payments
148.298 Pediatric Inpatient Adjustment Payments
148.300 Payment
148.310 Review Procedure
148.320 Alternatives
148.330 Exemptions
148.340 Subacute Alcoholism and Substance Abuse Treatment Services
148.350 Definitions
148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services
148.368 Volume Adjustment (Repealed)
148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services
148.390 Hearings
148.400 Special Hospital Reporting Requirements

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III] and implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 15052, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended

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at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amendment at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 148.297 Pediatric Outpatient Adjustment Payments

Pediatric Outpatient Adjustment Payments shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for outpatient services occurring on or after July 1, 1998, in accordance with this Section.

- a) To qualify for payments under this Section, a hospital must:
 - 1) be a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), and
 - 2) have a Pediatric Medicaid Outpatient Percentage greater than 80 percent during the Pediatric Outpatient Adjustment Base Period.
- b) Hospitals qualifying under this Section shall receive the following amounts for the Pediatric Outpatient Adjustment Rate Year for dates of services occurring on or after July 1, 1998, but before January 1,

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

1999:

- 1) For hospitals with a Medicaid Inpatient Utilization Rate (MIUR) that is less than 75 percent, the product of:
 - A) the hospital's MIUR plus one, multiplied by
 - B) the number of Pediatric Adjustable Outpatient Services, multiplied by
 - C) \$185.
- 2) For hospitals with an MIUR that is greater than or equal to 75 percent, the product of:
 - A) one and one-half the hospital's MIUR plus one, multiplied by
 - B) the number of Pediatric Adjustable Outpatient Services, multiplied by
 - C) \$185.
- c) Hospitals qualifying under this Section shall receive the following amounts for the Pediatric Outpatient Adjustment Rate Year for dates of services occurring on or after January 1, 1999:
 - 1) For out-of-state cost reporting hospitals with an MIUR that is less than 75 percent, the product of:
 - A) for dates of services occurring on or after January 1, 1999, but before July 1, 1999:
 - i) the hospital's MIUR plus 1.3 three, multiplied by
 - ii) the number of Pediatric Adjustable Outpatient Services, multiplied by
 - iii) \$185.
 - B) for dates of services occurring on or after July 1, 1999:
 - i) the hospital's MIUR plus 1.15 one--and--one-half, multiplied by
 - ii) the number of Pediatric Adjustable Outpatient Services, multiplied by
 - iii) \$185.
 - 2) For Illinois hospitals with an MIUR that is less than 75 percent, the product of:
 - A) the hospital's MIUR plus one, multiplied by
 - B) the number of Pediatric Adjustable Outpatient Services, multiplied by
 - C) \$185.
 - 3) For Illinois hospitals with an MIUR that is greater than or equal to 75 percent, the product of:
 - A) one and one-half the hospital's MIUR plus one, multiplied by
 - B) the number of Pediatric Adjustable Outpatient Services, multiplied by
 - C) \$185.
- d) In addition to the reimbursement rates described in subsection (b) above, hospitals that have an MIUR that is greater than or equal to 80 percent shall receive an additional \$250,000 during the Pediatric Outpatient Adjustment Rate Year.
- e) Adjustments under this Section shall be paid on a quarterly basis.
- f) Definitions

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) "Medicaid Inpatient Utilization Rate (MIUR)", as used in this Section, has the same meaning as ascribed in Section 148.120(k)(5), in effect for the rate period October 1, 1996, through September 30, 1997.
- 2) "Pediatric Adjustable Outpatient Services" means the number of outpatient services, excluding procedure code 0080, adjudicated through a UB92 billing form and grouped through the Hospital Ambulatory Care Groupings, as defined in Section 148.140(b)(1), during the Pediatric Outpatient Adjustment Base Period. For a hospital, which includes a facility devoted exclusively to caring for children, that is separately licensed as a hospital by a municipality, Pediatric Adjustment Outpatient Services will include psychiatric services (categories of service 27 or 28) for children less than 18 years of age, that are billed through the affiliated general care hospital.
- 3) "Pediatric Medicaid Outpatient Percentage" means a percentage that results from the quotient of the total Pediatric Adjustable Outpatient Services for persons less than 18 years of age divided by the total Pediatric Adjustable Outpatient Services for all persons, during the Pediatric Outpatient Adjustment Base Period.
- 4) "Pediatric Outpatient Adjustment Base Period" means all services billed to the Department, excluding procedure code 0080, with State Fiscal Year 1996 dates of service that were adjudicated by the Department on or before March 31, 1997.
- 5) "Pediatric Outpatient Adjustment Rate Year" means State Fiscal Year 1998 and each State Fiscal Year thereafter.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Grants-In-Aid
- 2) Code Citation: 89 Ill. Adm. Code 360
- 3) Section Numbers: Adopted Action:
360.3 Amend
- 4) Statutory Authority: Implementing and authorized by the Children and Family Services Act [20 ILCS 505] and the Child Care Act of 1969 [225 ILCS 10]

- 5) Effective Date of Amendments: January 15, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this proposed amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: June 26, 1998 at 22 Ill. Reg. 10941

- 10) Has JCAR issued a Statement of Objections to these amendments: No

- 11) Difference(s) between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will these amendments replace an emergency rule currently in effect: No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendments:

These amendments are being adopted to comply with statutory revisions. The amendments clarify that Department grants for the support of Children's Advocacy Centers can be provided after the first full fiscal year of operation only when supplemented by funding from community sources.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Mr. Jerry B. Crabtree
Office of Child and Family Policy
Department of Children and Family Services

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: ORPINFO@pop.state.il.us

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER c: FISCAL ADMINISTRATION

PART 360
 GRANTS-IN-AID

- Section
 360.1 Purpose
 360.2 Definitions
 360.3 General Characteristics of Grants in-Aid
 360.4 Applications for Grants
 360.5 Grants-in-Aid for Day Care (Repealed)
 360.6 Grants-in-Aid for Child Abuse and Neglect Research, Demonstration and Development
 360.7 Continuation of Grants-in-Aid (Repealed)
 360.8 Monitoring and Required Reports (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505] and the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 7807, effective August 3, 1981; amended at 8 Ill. Reg. 17263, effective October 1, 1984; amended at 9 Ill. Reg. 7928, effective May 15, 1985; amended at 21 Ill. Reg. 15486, effective December 15, 1997; amended at 23 Ill. Reg. 954-17 effective

JAN 15 1999

Section 360.3 General Characteristics of Grants in-Aid

- a) Grants-in-aid are used for the following general purposes:
- 1) To provide initial start-up funding for programs in their developmental stages.
 - 2) Demonstration or pilot projects.
 - 3) Research or other non-direct service projects.
 - 4) To promote local community-based programs in the areas that lack needed services.
 - 5) To promote programs of value to child welfare and youth service in general, even though the Department does not make direct use of them for its own clients.
- b) Grants are generally paid in advance or on a monthly or quarterly basis, as opposed to purchase of service contracts (see 89 Ill. Adm. Code 357: Purchase of Service) which are paid based on units of service after the service has been provided. However, grants may also be based on provision of a minimum level of units of service or a deliverable product.
- c) Other sources of support from the Department or the community should supplement grant support as the project moves from the development or demonstration phase to becoming an ongoing program. Projects which

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

are not eligible for financing from other Department funding sources may be considered for grant funding continuation provided the project's goals and objectives are being met, there is a continuing need for the project, no other funding sources are available and continued grant funds from the Department are available. Department grants for the support of Children's Advocacy Centers can be provided after the first full year of operation only when supplemented by funding from community services.

- d) All grantees receiving a grant of more than \$50,000 from the Department shall provide the Department with an independent, certified audit within 180 days after the close of the grantee's fiscal year. Additionally, all grantees shall provide the Department with reports as stipulated in the grant contract and keep fiscal and programmatic records which document the ways in which grant monies were spent and services were rendered. Such required record keeping includes, but is not limited to:

- 1) establishment of financial record keeping which includes:

- A) Cash Receipts Journal
- B) Cash Disbursements Journal
- C) General Journal
- D) General Ledger
- E) All cash disbursements and/or expenses must be fully supported by documentation; such as, invoices, time sheets, time studies, or approved cost allocation plans.

- 2) establishment of programmatic compliance record keeping which include:

- A) individual client files on each client applying for and receiving service.
- B) schedule of service provided to each client which includes the date and time service was provided, and the agency's employee providing service.

- e) Disallowable costs for which grant monies may not be used are the same as the disallowable costs set forth in Rate Setting, 89 Ill. Adm. Code 356.60.

(Source: Amended at 23 Ill. Reg. 954-17, effective

JAN 15 1999)

OFFICE OF THE COMPTROLLER
NOTICE OF ADOPTED RULES

1) Heading of the Part: Standard Procurement

2) Code Citation: 44 Ill. Adm. Code 1120

3) Section Numbers: Adopted Action:

1120.1 New
1120.5 New
1120.8 New
1120.10 New
1120.15 New
1120.25 New
1120.525 New
1120.1002 New
1120.1510 New
1120.1560 New
1120.1570 New
1120.1580 New
1120.2005 New
1120.2010 New
1120.2012 New
1120.2015 New
1120.2020 New
1120.2025 New
1120.2030 New
1120.2035 New
1120.2036 New
1120.2037 New
1120.2038 New
1120.2040 New
1120.2043 New
1120.2044 New
1120.2045 New
1120.2046 New
1120.2047 New
1120.2050 New
1120.2055 New
1120.2060 New
1120.2060 New
1120.2560 New
1120.2800 New
1120.3005 New
1120.4005 New
1120.4505 New
1120.4510 New
1120.4530 New
1120.4535 New
1120.4540 New
1120.4545 New
1120.5013 New

OFFICE OF THE COMPTROLLER
NOTICE OF ADOPTED RULES

1120.5015 New
1120.5020 New
1120.5030 New
1120.5035 New
1120.5310 New
1120.5510 New
1120.5520 New
1120.5530 New
1120.5540 New
1120.5550 New
1120.6010 New
1120.6500 New
1120.6510 New
1120.6520 New
1120.7000 New
1120.7010 New
1120.7015 New
1120.7020 New
1120.7025 New
1120.7030 New

4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]

5) Effective Date of Rule: November 24, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this proposed rule contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice(s) of Proposal Published in Illinois Register: May 29, 1998; 22 Ill. Reg. 8955

10) Has JCAR issued a Statement of Objections to these rule(s)? No

11) Difference(s) between proposed and final version:

In Section 1120.08, added the number "50" to list of Articles.

In Section 1120.1510, added (44 Ill. Adm. Code 1) at end of last line.

In Section 1120.2005, added "late" before Modifications.

In Section 1120.2005, under subsections (e)(3), (f)(1)(B), and (j)(3), added "Economically Feasible" after Sole.

OFFICE OF THE COMPTROLLER

NOTICE OF ADOPTED RULES

In Section 1120.2010 under (j)(4) added "(j)" after "subsection?"

In Section 1120.2030(b)(1)(B) changed "are needed to IOC property" to "IOC property are needed"

In Section 1120.2035(a)(2) added cite [30 ILCS 525/1-15.60] at end of sentence.

In Section 1120.2035(b)(5) added "contracts" after "services".

In Section 1120.2035(c) added period after "small purchases" and deleted "of these rules".

In Section 1120.2035(e)(2) added "(e)" after "1120.2010".

In Section 1120.2035(F)(ii) changed "Procurement Officer" to "SPO".

In Section 1120.2035(g) added "(f)" after "1120.2010" and changed "Conferences" to "Conference".

In Section 1120.2040(f)(1) changed "Section" to "subsection (f)".

In 1120.2040(3)(C) changed "State" to "IOC"

In 1120.2040(g) changed "Purchasing Officer" to "SPO"

In Section 1120.2043(a) changed "Sources" to "sources", deleted "following", changed "Special Sources" to "special sources" and added "outlined in this Section".

In Section 1120.2044(b) added "from the vendor list" after "exclusion".

In Section 1120.2046, changed "State's" to "IOC's".

In Section 1120.2047(e) added "Permissive/Mandatory Security".

In Section 1120.2050(d)(3) after "Sole" added "Economically Feasible".

In Section 1120.2055(a) changed "Rule" to "Subpart".

In Section 1120.2560(c) added "Wage Rates".

In Section 1120.2560(c)(2) changed "agency" to "IOC".

In Section 1120.2560(f) first paragraph after (3) deleted subsection (4) label.

In Section 1120.4545(e)(6) deleted "or not".

OFFICE OF THE COMPTROLLER

NOTICE OF ADOPTED RULES

In Section 1120.5520(a) changed "rule" to "Section".

In Section 1120.5520(a) after "days" changed "of" to "after".

In Section 1120.5530(d)(4) changed "such that he" to "so that the vendor".

In Section 1120.5530(d)(5) changed "these regulations" to "this Part".

In Section 1120.5550(c)(1) changed "thereto" to "to the protest".

In Section 1120.5550(c)(1) changed "In regard" to "With respect".

In Section 1120.5550(c)(1) changed "of" to "after".

In Section 1120.6500, last sentence, changed to Act's short title.

In Section 1120.6510 added "(1)".

In Section 1120.6510 changed "(b)" to "(2)" and deleted "if not required by the Code to be procured by".

In Section 1120.6510 changed ", and" to "are not required by the Code".

In Section 1120.7015(a)(2) changed "5560" to "7020".

In Section 1120.7015(a)(6) added "accomplish" before "any".

In Section 1120.7025(C) changed "thereto" to "to the determination".

In the index, added before SUBPART N added:

"SUBPART M: CONSTRUCTION AND CONSTRUCTION-RELATED PROFESSIONAL SERVICES"

Section 1120.3005 Construction and Construction-Related Professional Services".

In Section 1120.08 in the ILCS cite, changed "525" to "500"

In Section 1120.15, before "Contract" etc. added:

"Consulting Services" - Services provided by a business or person as an independent contractor to advise and assist an agency in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in the Code and this Part."

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In Section 1120.15, deleted last three lines of paragraph beginning with "Contract" and added:

"Commission, bonds, or contracts relating to bonds issued by or on behalf of a State Agency when the contractor or vendor is neither selected nor paid by the State Agency. The term "contract" includes, but is not limited to, purchase, installment purchase, lease and rental contracts."

In Section 1120.1580, after the period added: "No direct solicitation shall be made prior to the date any required notice first appears in the Bulletin."

In Section 1120.2005(a)(1) deleted "even if on time" and after the period added:

"A bid that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the IOC shall not be responsible for ensuring such subsequent delivery."

In Section 1120.2005(b)(2), after "offerors" inserted "who submitted timely bids or proposals".

In Section 1120.2005(b)(2), after the period added "This extension does not provide an opportunity for others to submit bids or proposals."

In Section 1120.2005(f)(2), after "and" added "submitted".

In Section 1120.2010(3)(1) changed "\$25,000" to "the small purchase limit".

In Section 1120.2015(b) after "categories", added "note that the following services, if they are professional and artistic, must be procured pursuant to Section 1129.2035 of this Part)".

In Section 1120.2020(a)(1) deleted "Procurements of \$10,000 or less for supplies or services", and added "Procurements of supplies or services that cost less than the small purchase limit."

In Section 1120.2020(d) deleted be "\$10,000 or more for supplies or services or \$20,000 for professional and artistic services, and the IOC determines that" and replaced with "exceed the small purchase limit, and the IOC determines that".

In Section 1120.2025 after "(c) Changes." at the beginning of the next line inserted "{1}" and after that paragraph added:

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"(2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 1120.2020 of this Part or that is an emergency as defined in Section 1120.2030 of this Part, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures."

In Section 1120.2030(a), after "(Small Purchases)" added ", that is not a sole source procurement under Section 1120.2025,".

In Section 1120.2030(b), after the period added "Procurements may be made under this Section 1120.2030 in the following circumstances:" and deleted "(1) A procurement may be made under this Section in situations in which:"

and replaced with "(1) Traditional circumstances include but are not limited to:".

In Section 1120.2030(b)(2) added:

"(3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State."

(4) Quick Purchase.

(A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of this Code for the supplies or services;

(B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;

(C) availability of rare items such as books of historical value;

(D) the procurement is for entertainment."

In Section 1120.2035(a)(1), after "Part" added "and except as provided in Section 1120.2035(c)".

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In Section 1120.2035(a)(2), changed "525" in the ILCS cite to "500".

In Section 1120.2035(k), deleted "acceptable" and after "proposals" added "timely submitted".

In Section 1120.2035, added:

"(m) Multiple Awards. The Procurement Officer may enter into negotiations with the next most qualified vendor or vendors when the purchasing agency has a need that requires multiple vendors under contract."

In Section 1120.2035, changed "(m)" to "(n)" and added:

"(o) Small, sole source and emergency procurements of professional and artistic services under the jurisdiction of an SPO do not require approval of the CPO to proceed. Any notices shall be published by the SPO."

In Section 1120.2045 after "(a) General." added:

"(1) The CPO shall identify by publication in the Bulletin the categories of supplies and services (including professional and artistic services) for which the CPO may prequalify vendors of those supplies and services. The CPO is not required to prequalify vendors but may do so when determination of a vendor's qualification prior to procurement would be advantageous to the State."

In Section 1120.2045, changed "(1)" to "(2)" and deleted "and whether"

In Section 1120.2045, deleted "prequalification will be a condition of bidding or being awarded a contract shall be announced in the Bulletin." and replaced with "shall be announced in the Bulletin. The notice shall alert vendors that failure to participate in the prequalification process may result in the vendor being ineligible to receive contracts."

In Section 1120.2045, changed "(2)" to:

"(3) When prequalifying a vendor, the CPO may limit prequalifications to determining whether a vendor has been and is likely to be "responsible" using the criteria set forth in Section 1120.2046 of this Part."

In Section 1120.2045, added:

"(4) When prequalifying a vendor, the CPO may consider factors tailored to a specific procurement or type of procurement; the factor shall be announced in the Bulletin."

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In Section 1120.2045, changed "(3)" to "(5)" and after the period added "If eligibility for the procurement will be limited to prequalified vendors, the Invitation for Bids, Request for Proposals or other procurement request shall state that fact."

In Section 1120.2045, deleted all of (1) under (b) and replaced with:

"(1) Any prequalification of vendors of professional and artistic services shall include, at a minimum, a specified level of:

(A) education;

(B) experience; and

(C) technical ability;

and may require certification, or licensure, or membership in professional associations."

In Section 1120.2046(b)(1), changed "include" to "may include, but are not limited to, whether a"

In Section 1120.2046(G), deleted "and" and in H) changed the period to "and".

In Section 1120.2046, after "(H)" added:

"I) is current in payment of all State of Illinois taxes, including the unemployment insurance tax."

In Section 1120.2050, after (d)(3) added:

"(4) Small and Emergency procurements. Brand name only specifications may be used when procuring items under the small (see Section 1120.2020) and emergency (see Section 1120.2025) provisions of this Part."

In Section 1120.2060(a)(1) added "of" after "term".

In Section 1120.2560, under (f) inserted "(1) Location"; changed "(1) Cook County" to "(A) Cook County," and changed "(2)" and "(3)" to "(B)" and "(C)", respectively.

In Section 1120.2560, after "(C)" and at the beginning of the sentence starting with "where the printing is performed" added "(2)".

In Section 1120.4505, after the period, added "When any such preference is utilized, the Invitation for Bids, Request for Proposals, or other

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procurement request shall identify the preference and the conditions associated with such use. Subsequent Sections of this Subpart O identify conditions for the use of certain of the statutory preferences."

In Section 1120.4545, first sentence under (a) before the period, added "located in Illinois"

In Section 1120.4545, under (3) deleted all of "(5)" and replaced with

"(5) If the business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding \$9,000,000 and the retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4)."

In Section 1020.5013 b), after the period added "In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income, the entitlement shall be determined at the end of the company's most recent fiscal year."

In Section 1120.5030 deleted paragraph and changed to "The CPO and SPOs shall identify in writing their designees whose job, or whose position description, is at least 51% directly related to State procurement. The following activities are directly related to State procurement: drafting specifications, preparing Invitations for Bids and Requests for Proposals, negotiating contracts and supervising any of the foregoing. The CPO and SPOs shall maintain a record of their designees for at least two years following the end or revocation of the designation."

In Section 1120.5035 added:

"(a) For purposes of Section 50-35(a) of the Code, an "offer from responsive bidders or offerors" means only those offers that are received using an Invitation for Bids or Request for Proposals under Sections 20-10, 20-15, 2-35 or Article 35 of the Code. Disclosures are not required in small, sole source or emergency procurements.

(b) Definitions.

(1) For purposes of Section 50-35(b) of the Code, "parent entity," means a person who owns 100% of the bidding entity.

(2) For purposes of Section 50-35(b)(1) of the Code, "contractual

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employment of services" means any contract to provide services to the State, whether as independent contractor or employee, which is by and between the State and the named individual."

In Section 1120.5035 relettered remaining subsections.

In Section 1120.5035(b) after "guard services" added ", but excludes contracts with employees who are exempt from the Code under Section 1-10(b)(4)."

In Section 1120.5035(c), changed "Section 20-10" to "Sections 20-10, 20-15 and 20-35".

In Section 1120.5530 subsections (1), (2), (4) and (5) deleted "In the event" and capitalized "the".

In Section 1120.5530 subsection (3) deleted "In the event" and capitalized "any".

In Section 1120.5530 subsection (6) deleted "In the event of" and capitalized "any".

In Section 1120.5550(c)(1) changed "14" to "7 calendar".

Several minor editing changes have also been made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these rules replace an emergency rule currently in effect? Yes

14) Are there any rules pending on this Part? No

15) Summary and Purpose of Rules: Amends procedures for procurement as now required by PA 90-572.

16) Information and questions regarding these adopted rules shall be directed to:

Mr. John E. Stevens
Legal Counsel
Illinois Office of the Comptroller
201 State Capitol
Springfield, Illinois 62706-0001
(217) 782-5328

The full text of the adopted rules begins on the next page:

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS AND PROPERTY
 SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
 CHAPTER XIV: COMPTROLLER

PART 1120

STANDARD PROCUREMENT

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 1120.05 Policy
 1120.08 Illinois Procurement Code
 1120.10 Application
 1120.15 Definitions of Terms Used in this Part
 1120.25 Property Rights

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Section
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SUBPART F: SUPPLIERS, PREQUALIFICATION, AND RESPONSIBILITY

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 1120.2043 Suppliers
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SUBPART G: BID, PROPOSAL, AND PERFORMANCE SECURITY

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 1120.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section
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SUBPART I: CONTRACT TYPE

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SUBPART J: DURATION OF CONTRACTS

Section
 1120.2060 Duration of Contracts - General

SUBPART K: CONTRACT MATTERS

Section
 1120.2560 Prevailing Wage

SUBPART L: CONTRACT PRICING

Section
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SUBPART M: CONSTRUCTION AND CONSTRUCTION-RELATED PROFESSIONAL SERVICES

Section
 1120.3005 Construction and Construction-Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

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Section 1120.4005 Real Property Leases and Capital Improvement Leases

SUBPART O: PREFERENCES

Section 1120.4505 Procurement Preferences
1120.4510 Resident Bidder Preference
1120.4530 Correctional Industries
1120.4535 Sheltered Workshops for the Disabled
1120.4540 Gas Mileage
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SUBPART P: ETHICS

Section 1120.5013 Conflicts of Interest
1120.5015 Negotiations for Future Employment
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SUBPART Q: CONCESSIONS

Section 1120.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section 1120.5510 Complaints Against Vendors
1120.5520 Suspension
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SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section 1120.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section 1120.6500 General
1120.6510 State Use of Other Contracts
1120.6520 No Agency Relationship

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SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 1120.7000 Severability
1120.7010 Government Furnished Property
1120.7015 Inspections
1120.7020 Records and Audits
1120.7025 Written Determinations
1120.7030 No Waiver of Sovereign Immunity

AUTHORITY: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 500/1-30].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 12087, effective July 1, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 658 m. 23 effective NOV 24 1998.

SUBPART A: GENERAL

Section 1120.01 Title

This Part may be cited as the Comptroller's Procurement Rules.

Section 1129.05 Policy

All procurements for the Office of the Comptroller (IOC) shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

Section 1120.08 Illinois Procurement Code

Articles 1, 15, 20, 25, 35, 40, 45, 50, and 53 of the Illinois Procurement Code [30 ILCS 500/Arts. 1, 15, 20, 25, 35, 40, 45, 50, and 53] (the Code) will be referenced in this Part as though applicable to the IOC, and needs shall be procured in a manner substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part. For purposes of this Part, any reference in the Code or this Part to the Chief Procurement Officer (CPO) means the Comptroller or his/her designee. The Comptroller may appoint one or more State Purchasing Officers (SPOs).

Section 1120.10 Application

- The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.
- Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such

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procurements shall not be impaired.

- c) A solicitation occurs on or before June 30, 1998, as follows:
 - 1) When advertising was required in the Official State Newspaper, the first advertisement must run no later than June 30, 1998.
 - 2) When advertising was not required:
 - A) but if the procurement was advertised, the first advertisement must have run no later than June 30, 1998;
 - B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked or placed in the control of a private carrier no later than June 30, 1998;
 - C) if the procurement was by direct solicitation by fax, the fax must show a transmission date no later than June 30, 1998;
 - D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the individual who made the solicitation must state in writing when the procurement was discussed, and must name the party with whom the discussion took place.
 - 3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest is not considered a solicitation.
- d) This Part shall not apply to:
 - 1) agreements among governments, or between State governmental bodies, except as specifically provided in the Code;
 - 2) grants;
 - 3) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
 - 4) collective bargaining contracts;
 - 5) purchase of real estate; or
 - 6) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the Comptroller's chief legal counsel shall give prior approval.

Section 1120.15 Definitions of Terms Used in This Part

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - Any person who submits a bid.

"Brand Name or Equal Specification" - A specification that uses one or

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more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Consulting Services" - Services provided by a business or person as an independent contractor to advise and assist an agency in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in the Code and this Part.

"Contract" - A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: goods or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds, or contracts relating to bonds issued by or on behalf of a State agency when the contractor or vendor is neither selected nor paid by the State agency. The term "contract" includes, but is not limited to, purchase, installment purchase, lease and rental contracts.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" - The Department of Central Management Services.

"IOC" - The Office of the Comptroller.

"Procurement Officer" - The CPO, appropriate SPO, or a designee of either who is charged with conducting a particular procurement.

"Proposal" - The response to a Request for Proposals.

"Qualified Products List" - An approved list of supplies, services, or construction items, described by model or catalogue numbers, that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Specification" - Any description of the physical, functional, or

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performance characteristics of, or of the nature of, a supply, service, or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

Section 1120.25 Property Rights

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto, or other offer confers no right to receive an award or contract, nor does it obligate the State in any manner.

SUBPART B: PROCUREMENT RULES

Section 1120.525 Rules

To the extent practicable, the IOC may avail itself of master, scheduled or open-ended contracts established by DCMS; items available from the Paper and Printing Warehouse; and DCMS contracts for telecommunications equipment, software and services, paper and envelopes, and vehicles and vehicle services. The CPO or SPO may submit purchase requests to DCMS in accordance with rules promulgated by DCMS.

SUBPART C: PROCUREMENT AUTHORITY

Section 1120.1002 Conduct of Procurements

The Comptroller or his/her designee shall serve as CPO for purposes of the Code and this Part and may conduct any or all procurements on behalf of the IOC. The CPO may appoint one or more SPOs to conduct procurement in accordance with the terms of the appointment and this Part.

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 1120.1510 Illinois Procurement Bulletin

Notice of any procurement action required by the Code to be publicized in the Illinois Procurement Bulletin will be forwarded to DCMS for inclusion in the appropriate volume of the Bulletin in accordance with rules promulgated by DCMS (44 Ill. Adm. Code 1).

Section 1120.1560 Supplemental Notice

Publication in the Bulletin may be supplemented by publication elsewhere at the

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discretion of the IOC.

Section 1120.1570 Error in Notice

When a required publication contains an error, the error may be corrected by a single notice published in the Bulletin.

Section 1120.1580 Direct Solicitation

In addition to giving notice in the Bulletin, the IOC may directly contact prospective vendors. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information. When making direct solicitations, at least three vendors should be contacted. No direct solicitation shall be made prior to the date any required notice first appears in the Bulletin.

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 1120.2005 General Provisions

a) Late Bids or Proposals, Late Withdrawals and Late Modifications.

- 1) Definition. Any bid or proposal received after the time and date for receipt, and at other than the specified location, is late. A bid that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the IOC shall not be responsible for ensuring such subsequent delivery. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late.
 - 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless it would have been timely but for the action or inaction of IOC personnel directly serving the procurement activity (e.g., providing the wrong address).
 - 3) Records. Records shall be made and kept for each late bid or proposal, late modification, or late withdrawal.
 - 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.
- b) Extension of Time.
- 1) The date or time for submitting a bid or proposal or modifying or withdrawing a bid or proposal may be extended by the IOC prior to such date or time for the convenience of the IOC. Reasons for extension include, but are not limited to, allowing additional time for submissions to account for inclement weather, labor strikes, accidents and other such reasons.
 - 2) After opening bids or proposals, the CPO or SPO may request bidders or offerors who submitted timely bids or proposals to extend the time during which the IOC may accept bids or proposals, provided that, with regard to bids, no other change is

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permitted. The reasons for requesting such extension shall be documented. This extension does not provide an opportunity for others to submit bids or proposals.

c) Electronic and Facsimile Submissions.

1) The Invitation for Bids (IFB) or Request for Proposals (RFP) may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.

2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.

3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit.

The Invitation for Bids or the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.

e) Only One Bid or Proposal Received.

If only one bid or proposal is received, an award may be made to the single bidder or offeror if the CPO or SPO finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:

- 1) new bids or offers may be solicited;
- 2) the procurement may be canceled; or
- 3) if the CPO or SPO determines in writing that the need for the supply or service continues, but that the price of the one bid is not fair and reasonable and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted with any vendor under Section 1120.2025 (Sole Economically Feasible Source Procurement) or Section 1120.2030 (Emergency Procurements), as appropriate. The CPO or SPO shall attempt to negotiate the price to a more acceptable level.

f) Alternate or Multiple Bids or Proposals.

1) Alternate bids or proposals may be accepted if:

- A) permitted by the solicitation and in accordance with instructions in the solicitation; or
- B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1120.2025 (Sole Economically Feasible Source

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Procurement) of this Part; or

C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications; or

D) a vendor clearly indicates a primary submission, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.

2) Multiple bids or proposals may be accepted if:

- A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or
- B) only one vendor responded, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.

g) Multiple Items.

An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.

h) "All or None" Bids or Proposals.

All or none bids or proposals may be accepted if the evaluation shows an all or none award to be in the State's best interest.

i) Conditioning Bids or Proposals Upon Other Awards.

Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

- 1) be rejected unless the vendor removes the condition; or
- 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs, provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.

j) Unsolicited Offers.

1) Processing of Unsolicited Offers. The CPO or the SPO may consider unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of such unsolicited offer.

2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.

3) Evaluation. The unsolicited offer may be evaluated to determine its utility to the State and whether it would be to the State's advantage to enter into a contract based on such offer. An unsolicited offer that meets the requirements set forth above may be considered for award if the procurement also meets the requirements of Section 1120.2025 (Sole Economically Feasible Source Procurement) or Section 1120.2020 (Small Purchases), in

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which case those procedures shall be followed as applicable.

4) Confidentiality. Any request for confidentiality of data contained in an unsolicited offer must be made in writing. If agreement cannot be reached on confidentiality, the IOC shall reject the unsolicited offer.

k) Clarification of Bids and Proposals.

The IOC may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to change its bid or proposal in response to a request for clarification.

1) Extension of Time on Indefinite Quantity Contracts.

The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the CPO or the SPO determines in writing that it is not practical to award another contract at the time of such extension. A clarification is not an opportunity for discussion or for submission of best and final as authorized elsewhere in this Part.

m) Increase in Quantity on Definite Quantity Contracts.

1) The quantity that may be ordered from a definite quantity contract may be increased by up to 20% provided the CPO or SPO determines that separate bidding for the additional quantity is not likely to achieve lower pricing.

2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the small purchase threshold applicable to the type of good or service.

n) Novation or Change of Name.

1) Assignment. No IOC contract is transferable, or otherwise assignable, without the written consent of the CPO; however, a vendor may assign monies receivable under a contract after due notice to the IOC. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the IOC.

2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:

A) the transferee assumes all of the transferor's obligations;

B) the transferee meets all requirements for contracting with the State;

C) the transferor waives all rights under the contract as against the IOC; and

D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the IOC, furnish a satisfactory performance bond.

3) Change of Name. When a vendor requests to change the name in which it holds a contract with the IOC, the CPO shall, upon receipt of a document indicating such change of name, enter into an agreement with the requesting vendor to effect such a change of name. The agreement changing the name shall specifically

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indicate that no other terms and conditions of the contract are thereby changed.

o) Contracting for Installment Purchase Payments, Including Interest. Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including 30 ILCS 305.

Section 1120.2010 Competitive Sealed Bidding

a) Application.

Competitive sealed bidding is the required method of source selection, except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.

b) The Invitation for Bids.

1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.

2) Content. The Invitation for Bids shall include, at a minimum, the following:

A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the State, and any other special information;

B) the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description; and

C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.

c) Bidding time.

Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.

d) Bidder Submissions.

1) Bid Form. The Invitation for Bids may provide a form that shall include space in which the bid price shall be inserted and that the bidder shall sign and submit along with all other necessary submissions.

2) Bid Samples and Descriptive Literature.

A) Bid samples or descriptive literature may be required when necessary to evaluate required characteristics of the items

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bid.

B) Unsolicited bid samples or descriptive literature is submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the State.

- e) Public Notice.
- 1) Publication. Every procurement for goods and services in excess of the small purchase limit that must be procured using an Invitation for Bids shall be publicized in the Illinois Procurement Bulletin.
 - 2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.
 - 3) Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall indicate where Invitations for Bids may be obtained; generally describe the supply or service desired; and indicate the due date for bids; and may contain other appropriate information. When appropriate, the SPO may require payment of a fee or a deposit for supplying the Invitation for Bids.

f) Pre-Bid Conference.

A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written amendment to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.

g) Amendments to Invitations for Bids.

- 1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB they amend.
- 2) Distribution. Amendments shall be sent to all prospective bidders known to have received an Invitation for Bids.
- 3) Timeliness. Amendments shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by fax or telephone and confirmed in the amendment.

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h) Pre-Opening Modification or Withdrawal of Bids.

- 1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening. A fax modification or withdrawal, or withdrawal received by telephone prior to the time and date set for bid opening, will be effective if followed in writing.
- 2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.
- 3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.
- i) Receipt, Opening and Recording of Bids.
 - 1) Receipt. Upon its receipt, each bid and modification shall be time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.
 - 2) Opening and Recording.
 - A) Bids and modifications shall be opened publicly at the time, date, and place designated in the Invitation for Bids. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the SPO shall be recorded and the name of each bidder read aloud or otherwise made available. The names of witnesses shall also be recorded at the opening.
 - B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.
 - 3) Confidential Data. The SPO shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.
- j) Bid Evaluation and Award.
 - 1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.
 - 2) Responsibility. Responsibility of prospective vendors is covered by Section 1120.2046 (Responsibility) of this Part.
 - 3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.

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- A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:
- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
 - ii) examination of such elements as appearance, finish, taste, or feel;
 - iii) other examinations to determine whether the product or service conforms with any other purchase description requirements.
- B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.
- 4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the Invitation for Bids. Only objectively measurable criteria that are set forth in the Invitation for Bids shall be applied in determining the lowest bidder. Examples of such criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the IOC has available concerning future use and shall treat all bids equitably. Pricing for optional supplies or services, or for renewal terms, shall not be considered.
- 5) Price Negotiation. This Section permits negotiations with the low bidder to obtain a lower price for the item bid.
- k) Documentation of Award.
- Following award, a record showing the successful bidder shall be made a part of the procurement file.
- 1) Award to Other Than Low Bidder.
- The SPO may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.

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m) Publicizing Award.

The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order or other clear communication. In procurements over the small purchase limit set in Section 1120.2020 (Small Purchases), notice of award shall be published in the Bulletin.

Section 1120.2012 Multi-Step Sealed Bidding

- a) Definition. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the IOC, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
- b) Conditions for Use. The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:
- 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
 - 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.
- c) Pre-Bid Conferences in Multi-Step Sealed Bidding. Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 1120.2010(f) (Pre-Bid Conference) may be conducted by the SPO.
- d) Procedure for Phase One of Multi-Step Sealed Bidding.
- 1) Form. Multi-step sealed bidding shall be initiated by the issuance of an Invitation for Bids in the form required by Section 1120.2010 (Competitive Sealed Bidding), except as provided in this Section. In addition to the requirements set forth in Section 1120.2010, the multi-step Invitation for Bids shall state:
 - A) that unpriced technical offers are requested;
 - B) whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
 - C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
 - D) the criteria to be used in the evaluation of the unpriced technical offers;

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- E) that the IOC, to the degree the SPO finds necessary, may conduct oral or written discussions of the unpriced technical offers;
- F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the Invitation for Bids.
- 2) Amendments to the Invitation for Bids. After receipt of unpriced technical offers, amendments to the Invitation for Bids shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the SPO, a contemplated amendment will significantly change the nature of the procurement, the Invitation for Bids may be canceled in accordance with Section 1120.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) and a new Invitation for Bids issued.
- 3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one witness. Such offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.
- 4) Evaluation of Unpriced Technical Offers. The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the Invitation for Bids. The unpriced technical offers shall be categorized as:
- A) acceptable;
 - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or
 - C) unacceptable, in which case the SPO shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.
- The SPO may initiate phase two of the procedure if, in the SPO's opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the SPO finds that such is not the case, the SPO may commence discussions of the unpriced technical proposals.
- 5) Discussion of Unpriced Technical Offers. The SPO may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of such discussions the SPO shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the SPO. Such submission may be made at the request of the SPO or upon the bidder's own initiative.

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- 6) Unacceptable Unpriced Technical Offer. When the SPO determines a bidder's unpriced technical offer to be unacceptable, such offer shall not be afforded an additional opportunity to supplement its technical offer.
- e) Procedure for Phase Two.
- 1) Initiation. Upon the completion of phase one, the SPO shall either:
 - A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
 - B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.
 - 2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:
 - A) no public notice need be given of this invitation to submit priced bids because such notice was previously given; after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The SPO shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of such bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the SPO shall reject the offer. Such technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
 - C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

Section 1120.2015 Competitive Sealed Proposals

- a) Competitive sealed proposals may be used whenever permitted by the Code and as described in this Section.
- b) The competitive sealed proposal method of source selection may be used to procure the following categories (note that the following services, if they are professional and artistic, must be procured pursuant to Section 1120.2035 of this Part):
 - 1) electronic data processing equipment, software, and services;
 - 2) telecommunications equipment, software, and services;
 - 3) consulting services; and
 - 4) employee benefits and management of those benefits.
- c) Competitive sealed proposals may be used on a case-by-case basis when it is determined that competitive sealed bidding is either not practicable or advantageous.
 - 1) "Practicable" Distinguished from "Advantageous". As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and this Section, the term "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the

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State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the SPO shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.

- 2) General Discussion.
 - A) If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.
 - B) The key element in determining advantageousness is the need for flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:
 - i) it permits discussions with competing offerors and changes in their proposals, including price; and
 - ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.
 - C) When evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, when the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or when the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.
- 3) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:
 - A) whether the contract needs to be other than a fixed-price type;
 - B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
 - C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - D) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the IOC. Quality factors include technical and performance capability and the content of the technical proposal; and
 - E) whether the primary consideration in determining award may

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not be price.

- 4) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the IOC, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:
 - A) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the IOC; and
 - B) whether the factors listed in subsection (c)(3) of this Section are desirable in conducting a procurement rather than necessary.
- d) Content of the Request for Proposals. The Request for Proposals shall be prepared in accordance with Section 1120.2010 (Competitive Sealed Bidding) provided that it shall also include:
 - 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
 - 2) a statement of when and how price should be submitted.
- e) Receipt and Registration of Proposals.
 - 1) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals. Opening shall be witnessed by a State employee or by any other person present but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
 - 2) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.
- f) Evaluation of Proposals.
 - 1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.
 - 2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered. Numerical rating systems may be used but are not required.
 - 3) Classifying Proposals. For the purpose of conducting discussions, proposals shall be initially classified as:
 - A) acceptable;
 - B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

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C) unacceptable.

Offerors whose proposals are unacceptable shall be so notified promptly.

g) Proposal Discussions with Individual Offerors.

- 1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and of this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses who submitted unacceptable proposals.

2) Purposes of Discussions. Discussions are held to:

- A) promote understanding of the State's requirements and the offerors' proposals; and
- B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

4) Best and Final Offers. The SPO may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The SPO may conduct additional discussions or change the IOC's requirements and require another submission of best and final offers. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediate previous offer will be construed as its best and final offer.

h) Award.

An award shall be made by the SPO pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals.

i) Publicizing Awards.

After a contract is awarded, notice of award shall be posted in the SPO's office. When the award exceeds the small purchase limit set in Section 1120.2020 of this Part, notice of award shall be published in the Bulletin.

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Section 1120.2020 Small Purchases

a) Application.

- 1) Procurements of supplies or services that cost less than the small purchase limit, other than professional and artistic, may be made without notice, competition or use of any prescribed method of source selection.
- 2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made without notice, competition or use of any prescribed method of source selection.

b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals shall be utilized. The stated value of the goods or services, plus any optional goods and services, shall be utilized. When the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.

c) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.

d) If, after signing the contract, the actual need is determined to exceed the small purchase limit, and the IOC determines that repurchase is not appropriate, the procedures for sole source or emergency procurement, whichever is applicable, must be complied with to obtain additional supplies or services.

Section 1120.2025 Sole Economically Feasible Source Procurement

a) Application.

The provisions of this Section apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 1120.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1120.2030 (Emergency Procurements).

b) Conditions for Use of Sole Source Procurement.

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
- 2) a sole supplier's items are needed for trial use or testing;
- 3) a sole supplier's item is to be procured for commercial resale;
- 4) public utility regulated services are to be procured;
- 5) the item is copyrighted or patented and the item or service is

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not available except from the holder of the copyright or patent; and

- 6) extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State.

c)

- 1) Changes to existing contracts germane to the original contract that are necessary or desirable to complete the project and that can be best accomplished by the contract holder may be procured under this Section.

- 2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 1120.2020 of this Part or that is an emergency as defined in Section 1120.2030 of this Part, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.

d) SPO to Determine.

- 1) The determination as to whether a procurement shall be made as a sole source shall be made by the SPO. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.

- 2) Any purchase request submitted to the SPO that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.

e) Publication of Sole Source Notice.

The Purchasing Agency shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

- 1) If no challenge to this determination is made by a vendor within the 14 day period, the SPO may execute a contract with that vendor.

- 2) If a challenge is received, the SPO shall consider the information and shall commence a competitive procurement if the SPO is convinced the sole source designation is not appropriate, unless an emergency situation now exists.

f) Negotiation in Sole Source Procurement.

The SPO shall conduct negotiations, as appropriate, to reach contract terms including price and shall maintain a record of each sole source procurement showing:

- 1) the vendor's name;
- 2) the amount and type of the contract;
- 3) a listing of the supplies, services, or construction procured

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- 4) under each contract; and
- the identification number of the contract file.

Section 1120.2030 Emergency Procurements

a) Applications.

The provisions of this Section apply to every procurement over the small purchase limit set in Section 1120.2020 (Small Purchases), that is not a sole source procurement under Section 1120.2025, made under emergency conditions.

- b) Definition of Emergency Conditions. Procurements may be made under this Section 1120.2030 in the following circumstances:

- 1) Traditional circumstances include but are not limited to:

- A) public health or safety, including the health or safety of any particular person, is threatened;
- B) repairs to IOC property are needed to protect against further loss or damage to IOC property, or to prevent loss or damage to IOC property;
- C) action is needed to prevent or minimize serious disruption in State services;
- D) action is needed to ensure the integrity of State records;
- E) a supplier of goods or services announces bankruptcy, going out of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is in the State's best interest;
- F) items are available on the spot market or at discounted prices available for a limited time such that good business judgment mandates a purchase immediately to take advantage of the availability and price;
- G) legal services to assist an agency in the formulation of policy, in drafting or evaluating documents, or in determining the extent of statutory authority that are needed sooner than the competitive process would allow;
- H) immediate action is needed to protect the interests of the State; or
- I) extending a contract is needed to conduct a competitive method of source selection.

- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

- 3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive

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method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State.

4) Quick Purchase

A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of this Code for the supplies or services;

B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;

C) availability of rare items such as books of historical value;

D) the procurement is for entertainment.

c) Scope of Emergency Conditions.

Emergency procurement shall be limited to those supplies or services necessary to meet the emergency.

d) Authority to Make Emergency Procurements.

Emergency procurements may be made when an emergency condition arises and the need cannot be met through normal procurement methods, provided that, whenever practical, existing IOC contracts shall be utilized and, whenever practical, approval by the SPO shall be obtained prior to the procurement. The CPO or SPO shall be responsible for making the filings required in Section 20-30 of the Code.

e) Source Selection Methods.

Any method of source selection, whether or not identified in the Code or this Part, may be used to conduct the procurement in emergency situations. Such competition as is practicable shall be obtained.

f) Determination and Record of Emergency Procurement.

1) Determination. The CPO or SPO shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. Such determinations shall be kept in the contract file with a copy sent promptly to the CPO.

2) Record. An affidavit of each emergency procurement shall be made as soon as practicable and shall include the following information:

- A) the vendor's name;
- B) the amount and type of the contract (if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known);
- C) a description of what the vendor will do or provide;
- D) the reasons for using the emergency method of source selection.

3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.

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Section 1120-2035 Competitive Selection Procedures for Professional and Artistic Services

a) Application.

1) The provisions of this Section apply to every procurement of professional and artistic services except those professional and other services necessary to prepare for anticipated litigation, enforcement actions, or investigations, which are exempt from the requirements of the Code and this Part and except as provided in Section 1120-2035(c).

2) "Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].

b) Professional and artistic services are further defined below:

1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.

2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.

3) "Qualified by technical ability" means the individual who would perform the services must previously have successfully performed services of similar nature to those specified in the Request for Proposals.

4) Essential elements distinguishing professional services from other services are confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service.

5) Professional and artistic services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional services contracts.

6) When the IOC requires services that meet the above requirements, then the services are professional and these competitive selection procedures must be followed. Otherwise the services must be procured in accordance with the other methods of source selection authorized by the Code and this Part.

c) Conditions for Use of Competitive Selection Procedures.

Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Any procurement of such services, less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1120-2020 (Small Purchases).

d) Prequalification.

The Comptroller's Director of Administrative Services may maintain a

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list of prequalified professional and artistic vendors in accordance with Sections 1120.2044 and 1120.2045 of this Part. Persons may amend statements of qualification at any time by filing a new statement.

- e) Public Notice of Competitive Selection Procedures.
- 1) Notice of the need for professional and artistic services shall be made by the CPO or SPO in the form of a Request for Proposals.
 - 2) Notice shall be given as provided in Section 1120.2010(e) (Public Notice) of this Part.
 - 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.

f) Request for Proposals.

1) Contents. The Request for Proposals shall be in the form specified by the SPO and shall contain at least the following information:

- A) the type of services required;
- B) a description of the work involved;
- C) an estimate of when and for how long the services will be required;
- D) the type of contract to be used;
- E) a date by which proposals for the performance of the services shall be submitted;
- F) a statement of the minimum information that the proposal shall contain, which may include:
 - i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - ii) if deemed relevant by the SPO, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
 - iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;

iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;

v) a plan giving as much detail as is practical explaining how the services will be performed;

G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and

H) the factors to be used in the evaluation and selection process and their relative importance.

2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. Price

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will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:

- A) the plan for performing the required services;
- B) ability to perform the services as reflected by technical training and education, general experience, specific qualifications and abilities of personnel proposed to be assigned to perform the services;
- C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
- D) a record of past performance of similar work.

g) Pre-Proposal Conference.

A pre-proposal conference may be conducted in accordance with Section 1120.2010(f) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.

h) Receipt and Handling of Proposals.

Proposals and modifications shall be sent to the SPO as directed in the solicitation and shall be time-stamped upon receipt and held in a secure place until the due date and time, at which they will be opened by the SPO. Proposals shall not be opened publicly nor disclosed to unauthorized persons, but shall be opened in the presence of at least one witness. A register of proposals shall be established that shall include, for all proposals, the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The register of proposals shall be open to the public only after award of the contract.

i) Discussions.

1) Discussions Permissible. The SPO may conduct discussions with any offeror to:

- A) determine in greater detail such offeror's qualifications; and
- B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach.

The SPO may allow changes to the proposal based on those discussions.

2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.

j) Selection of the Best Qualified Offerors.

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After conclusion of validation of qualifications, evaluation, and discussion, the SPO shall rank the acceptable offerors in the order of their respective qualifications.

k) Evaluation of Pricing Data.

Pricing submitted for all proposals timely submitted shall be opened and ranked.

- 1) If the low price is submitted by the most qualified vendor, negotiation of price shall commence.
- 2) If the price of the most qualified vendor is not low and if it is under \$25,000, the CPO or the SPO may award to that vendor.
- 3) If the price is over \$25,000, the CPO or SPO must state why the qualifications were deemed more important than price and such determination shall be published in the Bulletin.

l) Negotiation and Award of Contract.

- 1) General. The CPO or SPO shall negotiate a contract with the best qualified offeror for the required services at compensation determined in writing to be fair and reasonable.

- 2) Elements of Negotiation. Contract negotiations shall be directed toward:

A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;

B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity, and nature of such services.

- 3) Request for Nondisclosure of Data. If the offeror selected for award has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the head of the agency conducting the procurement or a designee of such officer shall examine the request in the proposal to determine its validity prior to entering negotiations. If the parties do not agree as to the disclosure of data in the contract, the SPO shall reject the proposal.

- 4) Successful Negotiation of Contract with Best Qualified Offeror. If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is cancelled. Compensation must be determined in writing to be fair and reasonable.

- 5) Failure to Negotiate Contract with Best Qualified Offeror.

A) If compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The SPO shall advise such

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offeror of the termination of negotiations.

- B) Upon failure to negotiate a contract with the best qualified offeror, the SPO may enter into negotiations with the next most qualified offeror, and so on in that manner until an award is made or the procurement canceled.

m) Multiple Awards. The Procurement Officer may enter into negotiations with the next most qualified vendor or vendors when the purchasing agency has a need that requires multiple vendors under contract.

n) Notice of Award. Written notice of award shall be public information and made a part of the contract file. The SPO shall publish the names of the responsible decision makers of the IOC, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.

o) Small, sole source and emergency procurements of professional and artistic services under the jurisdiction of an SPO do not require approval of the CPO to proceed. Any notices shall be published by the SPO.

Section 1120.2036 Other Methods of Source Selection

a) Split Award.

- 1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

- 2) The SPO shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

b) Multiple Award.

- 1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the IOC is obligated to order all of its actual requirements from those vendors.

- 2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1120.2010 (Competitive Sealed Bidding), Section 1120.2015 (Competitive Sealed Proposals), Section 1120.2020 (Small Purchases), and Section 1120.2030 (Emergency procurements), as applicable. Awards shall not be made for the purpose of simply dividing the business or making available product or supplier selection to allow for user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of State agencies.

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- 3) The IOC shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.
- 4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.
- 5) In a multiple award situation, one vendor may be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the SPO.
- c) Auction.
 - Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.
- d) Non-governmental Joint Purchase.
 - The CPO may enter into an agreement with a person not eligible for the Governmental Joint Purchasing Act for the joint procurement of anything covered by this Code. Any method of source selection may be used and may be modified or adopted to meet the needs of the non-State entity.
- e) Federal Requirements.
 - Requirements of this Code and this Part may be modified or adapted to meet federal requirements.
- f) Donations.
 - With approval of the CPO, when the IOC receives a donation that provides the majority of the funding, IOC may follow any procurement or contracting requirements established as a condition of the donation, but shall follow the Code and this Part whenever practicable.

Section 1120.2037 Tie Bids and Proposals

- a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation.
- b) Tie bids or proposals will be treated as follows:
 - 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with subsections (b)(2) through (5) of this Section. "Illinois resident vendor" has the meaning given in Section 1120.4510 (Resident Bidder Preference) of this Part.
 - 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State or IOC shall be given additional consideration in determining responsibility if the SPO

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- determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.
- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the goods or services offered, the vendor offering the best quality will be accepted.
- 4) If there is no significant difference in responsibility and no difference in quality of the goods or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the IOC require as early delivery as possible.
- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the SPO determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of good or service requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.
- c) Record. Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:
 - 1) the identification number of the solicitation;
 - 2) the supply, service, or construction item; and
 - 3) a listing of all the bidders and the prices submitted.

Section 1120.2038 Mistakes

- a) General. Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.
- b) Mistakes Discovered Before Opening. A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.
- c) Confirmation of Mistake. When the SPO knows or has reason to conclude that a mistake has been made, such officer should request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.
- d) Mistakes in Bids Discovered After Opening but Before Award. This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.
 - 1) Minor Informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or

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inconsequential defect or variation of a bid from the exact requirement of the Invitation for Bids, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The Procurement Officer shall waive such informalities or allow the bidder to correct them, depending on which is in the best interest of the State. Minor informalities include insignificant mistakes when the effect on price, quantity, quality, delivery, or contractual conditions is negligible. Examples of minor informalities as to form include the failure of a bidder to:

- A) return the number of signed bids required by the Invitation for Bids;
 - B) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound, including but not limited to signature on an auxiliary form, submission of a bid guarantee or submission of a signed transmittal letter; or
 - C) acknowledge receipt of an amendment to the Invitation for Bids, but only if:
 - i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
 - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.
- 2) Mistakes Where Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
- 3) Mistakes Where Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:
- A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.
- e) Mistakes in Proposals Discovered After Receipt, but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.
- 1) During Discussions; Prior to Best and Final Offers. Once discussions are commenced with any offeror or after best and final offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of best and final offers.
 - 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be

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treated as they are under competitive sealed bidding. (See subsection (d) above.)

- 3) Correction of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
 - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or
 - B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.

- 4) Withdrawal of Proposals. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:
 - A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
 - B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
 - C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

- f) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract except when the CPO or the SPO finds it would be unconscionable not to allow the mistake to be corrected.
- g) Determinations Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The SPO shall prepare the determination.

Section 1120.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

- a) Scope of this Section. The provisions of this Section shall govern the cancellation of any solicitations whether issued by the IOC under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.
- b) Policy. Any solicitation may be canceled when the SPO believes cancellation to be in the State's best interest. Nothing shall compel the award of a

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contract.

c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening.

1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

2) Prior to opening, a solicitation may be canceled in whole or in part when the SPO determines in writing that such action is in the State's best interest for reasons including, but not limited to:

- A) the IOC no longer requires the supplies, services, or construction;
- B) the IOC no longer can reasonably expect to fund the procurement; or
- C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all businesses that responded to the solicitation.

4) The notice of cancellation shall:

- A) identify the solicitation;
- B) briefly explain the reason for cancellation; and
- C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services, or construction.

d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening.

1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the SPO determines in writing that such action is in the State's best interest. Such reasons may include, but are not limited to:

- A) the supplies, services, or construction being procured are no longer required;
- B) ambiguous or otherwise inadequate specifications were part of the solicitation;
- C) the solicitation did not provide for consideration of all factors of significance to the IOC;
- D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
- F) there is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

2) When the solicitation is canceled or when all bids or proposals

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are rejected, all vendors who submitted bids or proposals shall be sent a notice informing them of the cancellation or rejection.

e) Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

f) Rejection of Individual Bids or Proposals.

1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.

2) Notice in Solicitation. Each solicitation issued by the IOC shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.

3) Reasons for Rejection.

Reasons for rejecting a bid or proposal may include, but are not limited to:

A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1120.2046 (Responsibility);

B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;

C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the IOC in some material respect;

D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or

E) the proposed price is clearly unreasonable.

4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

g) Disposition of Bids or Proposals.

When bids or proposals are rejected, they shall be retained until after award. When a solicitation is canceled, the bids or proposals will be discarded or returned to the vendor at the discretion of the SPO.

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 1120.2043 Suppliers

a) An agency with procurement authority may contract with any qualified source of supply, but must give preference to directed sources and should consider the special sources outlined in this Section.

b) Directed Sources--State-Produced Supplies or Services.

- 1) Correctional Industries. The SPO, after consulting with the Department of Corrections, shall determine the type and extent of

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the preference given to supplies produced or services performed by Correctional Industries.

- 2) Central Services. Supplies and services available from the program operations of the Department of Central Management Services shall be utilized unless the SPO authorizes procurement from other sources.

c) Special Sources.

- 1) Prior to any equipment procurement, the IOC will consider property available from the State and Federal Surplus Warehouses under the jurisdiction of the Department of Central Management Services.
- 2) Various goods and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code. Information regarding the workshops will be obtained from DCMS.
- 3) Various goods and services are available from State agencies and other governmental units. These may be procured without notice and competition.

Section 1120.2044 Vendor Lists

- a) The Comptroller's Director of Administrative Services may maintain a list of vendors interested in doing business with the IOC. Lists of names and addresses of bidders shall be available for public inspection.
- b) Inclusion or exclusion from the vendor list of the name of a business does not indicate whether the business is responsible in respect to a particular procurement or otherwise capable of successfully performing a State contract.
- c) Invitations for Bids and other solicitations will be sent to vendors on the vendor list for goods or services in question, except in the following cases:
 - 1) The vendor does not sell the particular commodity or equipment.
 - 2) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The IOC may, if it determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis.
 - 3) The IOC determines that the best interests of the State will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service).
- d) The SPO may alternatively refer to vendor lists maintained by DCMS.

Section 1120.2045 Prequalification

- a) General.

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- 1) The CPO shall identify by publication in the Bulletin the categories of supplies and services (including professional and artistic services) for which the CPO may prequalify vendors of those supplies and services. The CPO is not required to prequalify vendors but may do so when determination of a vendor's qualification prior to procurement would be advantageous to the State.
- 2) The SPO may require that vendors be prequalified as a condition of being placed on the bid list. An opportunity to prequalify shall be allowed at least one time each fiscal year. The opportunity to prequalify and shall be announced in the Bulletin. The notice shall alert vendors that failure to participate in the prequalification process may result in the vendor being ineligible to receive contracts.
- 3) When prequalifying a vendor, the CPO may limit prequalifications to determining whether a vendor has been and is likely to be "responsible" using the criteria set forth in Section 1120.2046 of this Part. The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.
- 4) When prequalifying a vendor, the CPO may consider factors tailored to a specific procurement or type of procurement; the factor shall be announced in the Bulletin.
- 5) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified. If eligibility for the procurement will be limited to prequalified vendors, the Invitation for Bids, Request for Proposals or other procurement request shall state that fact.
 - b) Professional and Artistic Services.
 - 1) Any prequalification of vendors of professional and artistic services shall include, at a minimum, a specified level of:
 - A) education;
 - B) experience; and
 - C) technical ability;
 and may require certification, or licensure, or membership in professional associations.
 - 2) Categories of services that may be professional, depending on the requirements for education, experience and technical ability, include, but are not limited to:
 - A) medical;
 - B) legal;
 - C) accounting;
 - D) general consulting.
- c) Qualified Products Lists. Qualified products lists are treated in Section 1120.2050 (Specifications) of this Part.

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Section 1120.2046 Responsibility

- a) Application.
Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the IOC's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.
- b) Standards of Responsibility.
- 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met may include, but are not limited to, whether a prospective vendor:
 - A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements;
 - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing commercial and governmental commitments;
 - C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
 - D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or which would make contracting with that vendor undesirable may be declared not responsible for the particular procurement;
 - E) is qualified legally to contract with the State;
 - F) has supplied all necessary information in connection with the inquiry concerning responsibility;
 - G) has a current Public Contracts number from the Illinois Department of Human Rights, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination;
 - H) pays prevailing wages, if required by law; and
 - I) is current in payment of all State of Illinois taxes, including the unemployment insurance tax.
 - 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of such vendor. The State may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the Comptroller's Director of Administrative Services shall base the determination of responsibility upon any available information, or may find the

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- c) prospective vendor nonresponsible.
The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:
- 1) evidence that such vendor possesses such necessary items;
 - 2) acceptable plans to subcontract for such necessary items; or
 - 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.
- d) Duty Concerning Responsibility.
Before awarding a contract, the Comptroller's Director of Administrative Services must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires earlier proof.
- e) Written Determination of Nonresponsibility Required.
If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the Comptroller's Director of Administrative Services. The final determination shall be made part of the procurement file.
- f) Bond for Responsibility.
Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of such vendors.
- g) Affiliated Companies.
Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing nonresponsible vendor will be declared nonresponsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of nonresponsibility.
- h) Vendor Under Investigation.
A vendor under investigation by a governmental agency may be determined nonresponsible by the Comptroller's Director of Administrative Services.

SUBPART G: BID, PROPOSAL, AND PERFORMANCE SECURITY

Section 1120.2047 Security Requirements

- a) The Comptroller's Director of Administrative Services may require that a vendor furnish bid, proposal, or performance security on IOC contracts. Whenever security is required, except as provided herein, the procurement document will clearly indicate the type and amount of security.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.

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- c) Unless the amount is set by law, the Comptroller's Director of Administrative Services will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, or responsibility is questioned, and for similar reasons.
- e) Permissive/Mandatory Security.
 - 1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.
 - 2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
 - 3) Performance security is required on all public works contracts.
- f) A vendor may submit a single or continuous security each year that will be applicable on all IOC contracts. When such security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.
- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 1120.2050 Specifications

- a) SPO's Responsibilities Regarding Specifications.
 - 1) The SPO is authorized to write IOC procurement specifications.
 - 2) When a written determination is made by the SPO authorized to prepare such specifications that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, a contract to prepare specifications for IOC use in procurement of supplies or services may be entered into provided the SPO retains the authority to finally approve the specifications.
 - 3) If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the SPO. If no such specification exists, the SPO is hereby granted the authority to prepare specifications for use in such purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.
- b) Procedures for the Development of Specifications.
 - 1) If a specification for a common or general use item has been developed or a qualified products list has been developed in

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- accordance with this Section for a particular supply or service, it shall be used unless the SPO authorizes use of another specification.
- 2) All procurements shall be based on specifications that accurately reflect the IOC's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
 - 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate IOC needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 4) Any specifications or standards adopted by business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 5) A specification may provide alternate descriptions when two or more design, functional, or performance criteria will satisfactorily meet the IOC's requirements.
- c) Brand Name or Equal Specification.
- 1) Brand name or equal specifications may be used when the SPO determines in writing that:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the IOC's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the State's best interest.
 - 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
 - 3) Required Characteristics. Unless the SPO authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
 - 4) Nonrestrictive Use of Brand Name or Equal Specifications. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not

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intended to limit, or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that a product is equal is on the bidder.

d) Brand Name Only Specification.

- 1) Determination. A brand name only specification may be used only when the SPO makes a written determination that only the identified brand name item or items will satisfy the IOC's needs.
- 2) Use. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the SPO.
- 3) Competition. The SPO shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1120.2025 (Sole Economically Feasible Source Procurement) of this Part.
- 4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under the small (see Section 1120.2020) and emergency (see Section 1120.2025) provisions of this Part.

e) Qualified Products List.

- 1) Use. A qualified products list may be developed when testing or examining supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy IOC requirements.
- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
- 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.

f) Proven Products.

The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

g) State Required Samples.

- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each

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sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.

- 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the IOC's right to require adherence to specifications.

- 3) No payment will be made for IOC required samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

h) Product Demonstration.

Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the IOC's discretion and will not entitle the bidder to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

- i) Specifications Prepared by Other Than IOC Personnel.
 - 1) Specifications may be prepared by other than IOC personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts. Contracts for the preparation of specifications by other than IOC personnel shall require the specification writer to adhere to the Code and the IOC requirements.
 - 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Comptroller determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be published in the Bulletin.

SUBPART I: CONTRACT TYPE

Section 1120.2055 Types of Contracts

a) Scope of Rule.

This Subpart contains descriptions of types of contracts and limitations as to when they should be utilized by the IOC in its procurements. Types of contracts not mentioned in this Section may also be utilized.

b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting.

The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Illinois Procurement Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract.

c) Types of Fixed-Price Contracts.

- 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides

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a price that is not subject to adjustment because of variations in the contractor's cost of performing the work specified in the contract.

2) Fixed-Price Contract with Price Adjustment.

A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in contractor price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward.

Examples of conditions under which adjustments may be provided in fixed-price contracts are:

i) changes in the contractor's labor agreement rates as applied to an industry or areawide (such as are frequently found in contracts for the purchase of coal);

ii) changes due to rapid and substantial price fluctuations, that can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and

iii) in requirement contracts when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

B) If the contract permits unilateral action by the contractor to bring about the condition under which a price increase may occur, the IOC shall retain the right to reject the price increase and terminate without cost the future performance of the contract.

d) Cost-Reimbursement Contracts.

1) Determination Prior to Use.

A) A cost-reimbursement type contract may be used only when the CPO or SPO determines in writing that such a contract is likely to be less costly to the IOC than any other type or that it is impracticable to obtain otherwise the supplies or services.

B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.

2) Cost Contract. A cost contract provides that the contractor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.

3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the contractor of an agreed

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fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract. The cost-plus-fixed-fee contract can be either a completion form or term form.

4) Cost Incentive Contracts.

A) General. A cost-incentive type of contract provides for the reimbursement to the contractor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the contractor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the contractor controls cost in the performance of the contract).

B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The contractor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the contractor suffers a loss.

C) Cost-Reimbursement Contract with Cost-Incentive Fee. In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the IOC is obligated to reimburse the contractor. The contractor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs.

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After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the contractor.

- e) Performance Incentive Contracts.
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the contractor to a bonus, while late completion may entitle the IOC to a price decrease.
- f) Time and Materials Contracts; Labor Hour Contracts.
Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior IOC approval.
- g) Definite Quantity and Indefinite Quantity Contracts.
 - 1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.
 - 2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the IOC is obligated to order and may also provide for a maximum quantity provision that limits the IOC's obligation to order.
 - 3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the IOC to order all the actual IOC requirements during a specified period of time.
- h) Leases.
A lease is a contract for the use of supplies or real property under which title will not pass to the IOC at any time.
- i) Recovery Contracts.
Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.
- j) Option Provisions.
 - 1) Contract Provision. When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is

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established for exercise at the IOC's option.

- 2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals.
 - k) State Produced Supplies and Services.
Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.
 - l) Extraordinary Quantities.
Notwithstanding any provision in any contract, the IOC reserves the right to take bids separately if a particular quantity requirement arises that exceeds the IOC's normal needs or ordering requirements.
 - m) Energy Conservation.
The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the IOC would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.
- SUBPART J: DURATION OF CONTRACTS
- Section 1120.2060 Duration of Contracts - General**
- a) General.
 - 1) A multi-term contract for a term of up to 10 years is authorized when determined by the SPO to be in the best interest of the State.
 - 2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than ten years.
 - b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contract shall be canceled without penalty to, or further payment being required by, the IOC. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.
 - c) Conditions for Use of Multi-Term Contracts.
 - 1) A multi-term contract may be used when:
 - 1) special production of definite quantities or the furnishing of long-term services are required to meet IOC needs; or
 - 2) a multi-term contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:

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- A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping such costs during the period of contract performance;
- B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
- C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or
- D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.

d) Multi-Term Contract Procedure.

The solicitation shall state:

- 1) the proposed term;
- 2) the amount of supplies or services required for the proposed contract period;
- 3) whether bidders or offerors may submit prices for:
 - A) the first fiscal period only;
 - B) the entire time of performance only; or
 - C) both the first fiscal period and the entire time of performance; and
- 4) how award will be determined.

e) Renewals.

- 1) Where the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option is reserved solely to the IOC.
- 2) When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part.

SUBPART K: CONTRACT MATTERS

Section 1120.2560 Prevailing Wage

- a) For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.

- 1) Public works;
- 2) Printing;
- 3) Janitorial services, window washing and security guard services

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having a monthly contract price of \$200 or a yearly price of \$2,000.

- b) Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.

c) Wage Rates.

- 1) Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount.
- 2) If the change cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are dependent on the usage rate, such as payroll taxes, worker's compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The IOC shall have the option to cancel the contract if it finds the new price unacceptable.
- 3) If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.
- 4) If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.
- 5) For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the public works efficiently and properly, "location" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.

f) For Printing Contracts, location means one of the following areas:

- 1) Location.
 - A) Cook County;
 - B) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, and Woodford counties;
 - C) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson,

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Jersey, Johnson, Lawrence, Macon, Macoupon, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.

- 2) Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.
- g) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
- h) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

SUBPART L: CONTRACT PRICING

Section 1120.2800 All Costs Included

The IFB or RFP and any resulting contract should define whether prices cover transportation, transit insurance, delivery, installation, taxes, and any other costs.

SUBPART M: CONSTRUCTION AND CONSTRUCTION-RELATED PROFESSIONAL SERVICES

Section 1120.3005 Construction and Construction-Related Professional Services

Construction and Construction-Related Professional Services shall be procured by the CPO in accordance with the State Comptroller Act [15 ILCS 405/2] under rules promulgated by the Capital Development Board (44 Ill. Adm. Code 910).

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 1120.4005 Real Property Leases and Capital Improvement Leases

Real property leases and capital improvement leases shall be procured in accordance with Article 40 of the Code, this Part, and 44 Ill. Adm. Code 5000. In the event of a conflict, 44 Ill. Adm. Code 5000 shall prevail.

SUBPART O: PREFERENCES

Section 1120.4505 Procurement Preferences

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts. When any such preference is utilized, the Invitation for

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Bids, Request for Proposals, or other procurement request shall identify the preference and the conditions associated with such use. Subsequent Sections of this Subpart O identify conditions for the use of certain of the statutory preferences.

Section 1120.4510 Resident Bidder Preference

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced.
- b) In breaking a tie, an Illinois resident vendor shall be given the award.
- c) An Illinois resident vendor who would perform the services or provide the supplies from another state shall be considered a resident of that other state as against an Illinois resident vendor who would perform the services or provide the supplies from Illinois, if that other state has an in-state preference.
- d) If an Illinois resident vendor produces or performs at least 51% of the goods or services in another state, that Illinois resident vendor shall be considered a resident of that other state for purposes of application of this reciprocal preference when evaluating the bid of an Illinois resident contractor that produces or performs at least 51% of the goods or services in Illinois.
- e) The SPO may refer to the list of states with in-state preference maintained by DCMS, which shall be considered in all procurements involving out-of-state vendors.

Section 1120.4530 Correctional Industries

- a) The SPO shall refer to the listing maintained by DCMS of the goods or services available and mandatorily purchased from the Department of Corrections.
- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the SPO.
- c) The SPO may procure from Corrections without seeking competition or giving public notice.

Section 1120.4535 Sheltered Workshops for the Disabled

- a) Use of Sheltered Workshop.

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The SPO shall refer to information prepared by DCMS concerning qualified sheltered workshops and categories of goods and services set aside to such sheltered workshops by DCMS. To the extent practicable, the IOC will observe such set asides.

b) Pricing Approval.

While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

Section 1120.4540 Gas Mileage

- a) Vehicle specifications shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code.
- b) Exceptions must be approved by the CPO and must fully describe the circumstances necessitating a noncompliant vehicle.
- c) No exceptions will be granted unless it is clear that a noncompliant vehicle is necessary.

Section 1120.4545 Small Business

- a) Set-Aside.
DCMS may determine categories of goods or services procurements that will be set aside for small business located in Illinois. The SPO may contact DCMS to determine whether a particular procurement has been set aside for small business, and, if so, the IOC may honor the set aside to the extent practicable.
- b) Small Business List.
The IOC may refer to the list of responsible vendors that meet the criteria of small business maintained by DCMS. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

- c) Required Use.
If the SPO wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.

- d) Withdrawal of Set-Aside.
If the SPO determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the SPO shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

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e) Criteria for Small Business.

Unless the SPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

- 3) With annual sales for most recently ended fiscal year no greater than:
 - A) \$7,500,000 for wholesale business;
 - B) \$3,000,000 for construction business; or
 - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
 - A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis for its most recently ended fiscal year.
 - B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If the business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding \$9,000,000 and the retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties control or have the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However,

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a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

SUBPART P: ETHICS

Section 1120.5013 Conflicts of Interest

- a) An individual has a direct pecuniary interest in a contract when the individual is owed a payment in conjunction with performance of a contract, including but not limited to finders fees and commission payments.
- b) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, and the remaining amount is actually distributed to those entitled to receive a share of such income. In the case of a for-profit corporation, distributable income means "dividends". When calculating entitlement to distributable income, the entitlement shall be determined at the end of the company's most recent fiscal year.
- c) This Section does not apply to contracts with licensed professionals provided such contracts are competitively bid. (For purposes of this Section, "bid" means procured pursuant to the competitive procedures identified in Subpart E of this Part.)

Section 1120.5015 Negotiations for Future Employment

- a) An individual who performs services pursuant to a contract and who meets the requirements of an "employee" as opposed to an independent contractor is in a "continued contractual relationship" for the effective date of the contract until such time as the contract is terminated.
- b) An individual who performs services pursuant to a contract and who meets the requirements of an "independent contractor" as opposed to an "employee" is in a "continued contractual relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individuals option, is renewable unless the State must act to terminate, or has a definite term of at least three months.

Section 1120.5020 Exemptions

If the SPO or CPO finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the Comptroller shall decide in writing whether to grant an exception and place the written determination in the contract file.

Section 1120.5030 Revolving Door

The CPO and SPOs shall identify in writing their designees whose job, or whose

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position description, is at least 51% directly related to State procurement. The following activities are directly related to State procurement: drafting specifications, preparing Invitations for Bids and Requests for Proposals, evaluating responses to Invitations for Bids and Requests for Proposals, negotiating contracts and supervising any of the foregoing. The CPO and SPOs shall maintain a record of their designees for at least two years following the end or revocation of the designation.

Section 1120.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

- a) For purposes of Section 50-35(a) of the Code, an "offer from responsive bidders or offerors" means only those offers that are received using an Invitation for Bids or Request for Proposals under Sections 20-10, 20-15, 20-35 or Article 35 of the Code. Disclosures are not required in small, sole source or emergency procurements.
- b) Definitions.
 - 1) For purposes of Section 50-35(b) of the Code, "parent entity" means a person who owns 100% of the bidding entity.
 - 2) For purposes of Section 50-35(b)(1) of the Code, "contractual employment of services" means any contract to provide services to the State, whether as independent contractor or employee, which is by and between the State and the named individual.
- c) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, and the remaining amount is actually distributed to those entitled to receive a share of such income.
- d) Personal Services shall be any contract for services subject to this Code including, by way of example, professional and artistic services, repair services, cleaning and guard services, but excludes contracts with employees who are exempt from the Code under Section 1-10(b)(4).
- e) "Competitively bid" means a contract let pursuant to Sections 20-10, 20-15 and 20-35 of the Code.
- f) The SPO may prescribe forms for the disclosure of potential conflicts of interest and financial interests of bidders or offerors required under Section 50-35 of the Code.

SUBPART Q: CONCESSIONS

Section 1120.5310 Concessions

Proposed concessions or leases of State property under this provision of the Code must be coordinated with DCMS to ensure compliance with the State Property Control Act [30 ILCS 605] and rules implementing that Act.

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section 1120.5510 Complaints Against Vendors

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- a) Whenever a vendor fails to deliver on time or meet specifications, or for other similar causes, the IOC shall initiate a complaint to the vendor.
- b) For relatively minor infractions, the IOC may initiate contact by telephone or in person. If not resolved by this action, a written complaint should be made.
- c) If the initial complaint is not satisfactorily answered, or for serious infractions, the IOC shall send a written complaint to the vendor detailing the problem.
- d) A copy of all written complaints and the resolution or status shall be filed with the CPO.

Section 1120.5520 Suspension

- a) Application.
This Section applies to all debarments or suspensions of vendors from consideration for award of contracts.
- b) The Comptroller's Director of Administrative Services may suspend a vendor from doing business with the IOC or for specific types of supplies or services. A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the Comptroller's Director of Administrative Services finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if they are received they will not be considered during the period of suspension.
- d) A contractor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective within seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The Comptroller's Director of Administrative Services may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the IOC. A debarment may only take place in those instances involving bribery or attempted bribery of a State or Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals will not be solicited from the debarred vendor, and, if received will not be considered.
- f) The Comptroller's Director of Administrative Services shall maintain a master list of all IOC suspensions and debarments and refer to the DCMS master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining

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responsibility.

Section 1120.5530 Settlement and Resolution of Contract and Breach

- a) Authority to Settle or Resolve Controversies.
The SPO that established the contract shall have authority to settle and resolve controversies but the Comptroller may set limits on such authority.
- b) Authority of Using Agency.
The IOC has the authority to accept delivery of goods or services in accordance with contract requirements as satisfactory adjustment of a complaint.
- c) Substitution of Terms/Price Reduction.
If the vendor proposes to make an adjustment by:
 - 1) substituting an alternative specification; or
 - 2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract,
 such proposal must be referred to and approved by the SPO.
- d) Cancellation for Breach of Contract.
In any of the following cases the SPO shall have the right to terminate or rescind any contract entered into under this Part:
 - 1) The successful bidder fails to furnish a satisfactory performance bond within the time specified.
 - 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the IOC.
 - 3) Any goods or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's goods or service, this shall be grounds for termination or rescission, even though the vendor offers to replace the goods or services promptly.
 - 4) The vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of goods or services to the IOC so that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any contracts with the IOC.
 - 5) The vendor should be adjudged bankrupt; enter into a general assignment for the benefit of his creditors or receivership due to insolvency; or disregard laws and ordinances, rules, or instructions of the IOC; or act in violation of any provision of the contract or this Part; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
 - 6) Any other breach of contract or other unlawful act by the vendor.
- e) Cancellation for Fraud, Collusion, Illegality, Etc.
The IOC may cancel any contract it established if there is sufficient

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evidence to show that:

- 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
- 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.
- f) Withholding Money to Compensate State for Damages.
If a contract is terminated or rescinded under this Section, the IOC may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's part on which the cancellation is based.
- g) Damages.
The damages for which the IOC may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:
 - 1) the additional cost of goods or services bought elsewhere;
 - 2) cost of repeating the procurement procedure;
 - 3) any expenses incurred because of delay in receipt of goods or services; and
 - 4) any other damages caused by the vendor's breach of contract or unlawful act.

Section 1120.5540 Violation of Statute or Rule

- a) Determination that Solicitation or Award Violates Law.
If the SPO finds that the solicitation or proposed award is in violation of statute or rule, the SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.
- b) Determination that Contract Violates Statute or Rule.
Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the IOC.
- c) Effect of Declaring a Contract Null and Void.
In all cases in which a contract is voided, the IOC shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

Section 1120.5550 Protests

- a) Protest Resolution by the SPO.
An actual or prospective bidder, offeror, or contractor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.
- b) Complaint.
Complainants should seek resolution of their complaints initially with

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the IOC. Such complaints may be made verbally or in writing.
c) Filing of Protest.

- 1) Protests shall be made in writing to the SPO and shall be filed within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the SPO. Protests filed after the 7 calendar day period shall not be considered. With respect to a protest regarding specifications, the protest must be received within 7 calendar days after the date the solicitation was issued, and in any event must be received by the IOC at the designated address before the date for opening of bids or proposals.
- 2) To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the following:
 - A) the name and address of the protester;
 - B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
 - C) a statement of reasons for the protest; and
 - D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.
- d) Requested Information; Time for Filing.
Any additional information requested by the IOC shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the SPO may result in resolution of the protest without consideration of that information.
- e) Stay of Procurements During Protest.
When a protest has been timely filed and before an award has been made, the SPO shall make no award of the contract and any award made shall be stayed until the protest has been resolved. The CPO may authorize award or reinstate the contract if necessary to protect the interests of the State.
- f) Decision by the CPO or SPO.
Time for Decisions. A decision on a protest shall be made by the SPO as expeditiously as possible after receiving all relevant requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.
- g) Effect of Judicial or Administrative Proceedings.
If an action concerning the protest has commenced in court, the CPO or SPO shall not act on the protest but shall refer the protest to the IOC's Chief Legal Counsel.

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Section 1120.6010 Supply Management and Dispositions

- a) Inventory Responsibility.
The IOC shall maintain accountability over tangible personal property and other supplies under its control subject to the requirements of the State Property Control Act and rules implementing that Act.
- b) Supply Management.
The IOC shall order supplies on a schedule and in quantities so as to maintain no more than a 12 month supply in inventory. Supplies shall be ordered so as to maintain the minimum inventory commensurate with ability to meet IOC needs. This 12-month inventory restriction does not apply when a greater quantity is needed to meet minimum order quantities.
- c) Annual Inventory.
All IOC inventory storage areas shall be inventoried at least annually.
- d) Report of Inventory.
The Comptroller's Director of Administrative Services shall be notified periodically of all supplies in excess of 12 months supply.

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section 1120.6500 General

In an effort to make the procurement process more efficient, State and other governmental units may agree to utilize each others procurement contracts. Agreements between State agencies with procurement authority and other governmental units with taxing authority are governed by this Part and the Governmental Joint Purchasing Act [30 ILCS 525].

Section 1120.6510 State Use of Other Contracts

The IOC may utilize procurement contracts established by other authorized State agencies or units of government:

- a) if:
 - 1) the contract was established by competitive sealed bid or competitive sealed proposal pursuant to the Code; or
 - 2) competitive sealed bid or competitive sealed proposals are not required by the Code;
- b) if the price is reasonable;
- c) if an existing contract of the IOC would not be violated;
- d) if allowed by the vendor;
- e) if necessary State contract terms can be added; and
- f) if State legal requirements are otherwise met.

Section 1120.6520 No Agency Relationship

In any joint procurement situation, the agency establishing the contract does

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not become the procurement agent for the other.

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 1120.7000 Severability

If any provision of this Part or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

Section 1120.7010 Government Furnished Property

If the IOC provides any property to the vendor in furtherance of the contract, such property shall remain the property of the State but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

Section 1120.7015 Inspections

a) Inspection of Plant or Site.

The IOC may enter a contractor's or subcontractor's plant or place of business to:

- 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
- 2) audit the books and records of any contractor or subcontractor pursuant to Section 1120.7020 (Records and Audits) of this Part;
- 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
- 4) determine whether the standards of responsibility have been met or are capable of being met;
- 5) determine if the contract is being performed in accordance with its terms; and
- 6) accomplish any other purpose permitted by law.

b) Inspection and Testing of Supplies and Services.

1) Solicitation and Contractual Provisions. State contracts may provide that the IOC may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.

2) Procedures for Trial Use and Testing. The Comptroller's Director of Administrative Services may establish operational procedures governing the testing and trial use of equipment, material, and other supplies, and the application of resulting information and data to specifications or procurements.

c) Conduct of Inspections.

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- 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector other than the SPO may change any provision of the specifications or the contract without written authorization of the SPO. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.
- 2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, such contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

Section 1120.7020 Records and Audits

- a) Retention of Books and Records.
 - 1) Books and records that relate to performance of an IOC contract, including subcontracts, and that support amounts charged to the IOC shall be maintained:
 - 1) by a contractor, for three years from the date of final payment under the prime contract;
 - 2) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
 - 3) by a contractor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.
- b) Contract Audit.
 - 1) Types of Contracts Audited. The type of contract under which books and records should be audited is that in which price is based on costs or is subject to adjustment based on costs, or that in which auditing would be appropriate to assure satisfactory performance, such as a time and materials contract.
 - 2) Situations in which an audit may be warranted include but are not limited to when a question arises in connection with:
 - A) the financial condition, integrity, and reliability of the contractor or subcontractor;
 - B) any prior audit experience;
 - C) the adequacy of the contractor's or subcontractor's accounting system;
 - D) the number or nature of invoices or reimbursement vouchers submitted by the contractor or subcontractor for payment;
 - E) the use of federal assistance funds;
 - F) the fluctuation of market prices affecting the contract; or
 - G) any other situation when the CPO or SPO finds that such an audit is necessary for the protection of the State's best interest.

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Section 1120.7025 Written Determinations

- a) Preparation and Execution.
 - 1) When the Code or this Part requires a written determination, the officer required to prepare the determination may delegate its preparation, but the responsibility for and the execution of the determination shall not be delegated.
- b) Content.
 - 1) Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.
- c) Obtaining Supporting Information.
 - 1) While an officer is responsible for the execution of the written determination, other State personnel, particularly technical personnel, are responsible for furnishing to the cognizant official, in an accurate and adequate fashion, the information pertinent to the determination. When requested, such information shall be furnished in writing to the cognizant official who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.
- d) Forms.
 - 1) The Comptroller's Director of Administrative Services shall prescribe methods and operational procedures to be used in preparing written determinations.
- e) Retention.
 - 1) Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of such file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.

Section 1120.7030 No Waiver of Sovereign Immunity

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Developmental Disabilities Services2) Code Citation: 89 Ill. Adm. Code 1443) Section Numbers: Adopted Action:
144.100 Amended4) Statutory Authority: Implementing Section 18.3 of the Mental Health and Developmental Disabilities Act [20 ILCS 1705/18.3] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5- 104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].5) Effective Date of Amendments: January 6, 19996) Does this rulemaking contain an automatic repeal date? No7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 31, 1998, 22 Ill. Reg. 1403910) Has JCAR Issued a Statement of Objections to these Rule(s)? No11) Difference(s) between proposal and final version:12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes13) Will this rule replace an Emergency Rule(s) currently in effect? No14) Are there any amendments pending on this Part: No15) Summary and Purpose of Rule(s): This amendment clarifies what conditions a participating facility must meet in order to remain in the program. Violation of certain Department of Public Health Standards (77 Ill. Adm. Code 390) will cause a facility to lose its payments for exceptional care. Language to clarify what documented training is required for personnel working with ventilator dependent residents and residents with tracheostomies was added. The remainder of the changes are technical, i.e., replacing the Department of Mental Health and Developmental Disabilities (DMHDD) with the Department of Human Services (DHS). The exceptional care program has only been in place since August 1996. The changes being made are based on comments and the experiences of

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participating facilities and administrative personnel to clarify a few simple issues.

16) Information and answers to questions regarding this adopted amendment shall be directed to:

Ms. Susan Weir, Bureau Chief
 Bureau of Administrative Rules and Procedures
 Department of Human Services
 100 South Grand Avenue East
 3rd Floor, Harris Bldg.
 Springfield, Illinois 62762
 Telephone number: (217) 785-9772

The full text of Adopted amendments begins on the next page:

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Reg. 15126, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993; emergency amendment repealed at 17 Ill. Reg. 22582, effective December 20, 1993; emergency amendment repealed at 18 Ill. Reg. 11314, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16619, effective October 27, 1994; amended at 19 Ill. Reg. 2890, effective February 22, 1995; amended at 19 Ill. Reg. 7906, effective June 5, 1995; amended at 20 Ill. Reg. 6916, effective May 6, 1996; emergency amendment at 20 Ill. Reg. 7426, effective May 24, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9072, effective June 28, 1996; amended at 20 Ill. Reg. 11326, effective August 1, 1996; amended at 20 Ill. Reg. 12465, effective August 30, 1996; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 9287, effective May 15, 1998; amended at 23 Ill. Reg. 9327, effective

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Section 144.100 Exceptional Care Needs of Clients with Developmental Disabilities

a) Exceptional Care Program

- 1) The Department of Human Services (Department) Mental-Health-and-Developmental-Disabilities--(DMHDB) may make payments to ~~SNF/HR~~ facilities that which meet licensure and certification requirements for skilled nursing facilities under age 22 (SNF/HR) as may be prescribed by the Department of Public Health (DPH) (see the Department of Public Health's rules at 77 Ill. Adm. Code 390). A participating facility must maintain its licensure and certification and be in compliance with the applicable conditions of participation and licensing and certification standards to be eligible for exceptional care. If DPH notifies the facility, in writing, of a need for a plan of correction for noncompliance with one or more conditions of participation, or that an imposed plan of correction for an A or B licensure finding is required, or if DPH notifies the facility because it has been declared an "immediate and serious threat" to the welfare of any resident(s), that facility will not be allowed to receive exceptional care reimbursement for any additional individuals from the date of DPH's written notification until the date DPH officially determines any and all of the conditions leading to the notification have been satisfactorily resolved. No payment for exceptional care shall be made retroactively for any residents admitted to the facility while the facility was in violation of DPH's rules at 77 Ill. Adm. Code 390. Exceptional care payment for such individuals shall commence when all such violations have been corrected, if such individuals are approved for exceptional care.
- 2) Exceptional medical care is defined as the level of care with extraordinary costs related to services which may include nurse, ancillary specialist services, and medical equipment and/or

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 144
DEVELOPMENTAL DISABILITIES SERVICES

Section	Incorporation By Reference
144.1	Determination of Program (Active Treatment) Costs
144.5	ICF/MR Service Criteria
144.25	Inspection of Care and Rate Setting Appeal Process
144.50	Comprehensive Functional Assessments and Reassessments (Repealed)
144.75	Exceptional Care Needs of Clients with Developmental Disabilities
144.100	Individual Program Plan (IPP) (Repealed)
144.105	Specialized Care - Behavior Development Programs
144.150	Specialized Care - Health and Sensory Disabilities
144.175	Functional Needs
144.200	Service Needs - Medical Care (Repealed)
144.205	Service Needs - Medical and Therapy Services (Repealed)
144.225	Individual Rights (Repealed)
144.230	Reconciliation of Resident Funds
144.235	Discharge Planning/Maximum Growth Potential Plan (Repealed)
144.275	Reimbursement for Program (Active Treatment) Costs in Residential Facilities for Clients with Developmental Disabilities
144.250	Reimbursement for Program (Active Treatment) Costs in Small Scale Residential Facilities
144.300	Capital Rate Calculation
144.325	Overview of Staff Intensity Scale of Maladaptive Behaviors
TABLE A	Staff Intensity Scale
TABLE B	IPP Outcomes (Repealed)
TABLE C	Guidelines for Determining Levels of Functioning
TABLE D	Standardized Adaptive Functional Assessment
TABLE E	

AUTHORITY: Implementing Section 18.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/18.3] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

SOURCE: Adopted at 14 Ill. Reg. 4 66, effective March 9, 1990; Section 144.275 recodified from 89 Ill. Adm. Code 146.225 at 14 Ill. Reg. 7651; amended at 14 Ill. Reg. 17988, effective October 29, 1990; amended at 15 Ill. Reg. 14084, effective September 24, 1991; emergency amendment at 15 Ill. Reg. 16148, effective October 22, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3497, effective February 28, 1992; amended at 16 Ill. Reg. 5898, effective March 20, 1992; amended at 17 Ill. Reg. 8478, effective June 1, 1993; amended at 17 Ill. Reg. 11480, effective July 16, 1993; emergency amendment at 17 Ill.

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supplies that have been determined to be a medical necessity. This may apply to Medicaid clients who currently are residing in SNF/Ped facilities, Medicaid patients who are being discharged from the hospital or other setting where Medicaid reimbursement is at a rate higher than the exceptional care rate for related services, or persons who are in need of exceptional care services and who would otherwise be in an alternative setting at a higher cost to the Department or the Department of Public Aid. This includes but is not limited to persons with complex respiratory illness, ventilator-dependent persons or persons with high medical needs for whom the SNF/Ped provides a cost-effective living arrangement. High medical needs is defined as licensed staffing costs 50 percent above the level III medical add-on licensed staffing reimbursement rate.

- 3) The Department BMHBB shall recommend rates to the Department of Public Aid (DPA) for DPA approval in accordance with the provisions of Section 18.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/18.2] and Section 5-11 of the Illinois Public Aid Code [305 ILCS 5/5-11]. The Department BMHBB will calculate the rates for exceptional care service categories by using data collected from SNF/Ped exceptional care providers.

b) Exceptional Care Requirements

The Department BMHBB may reimburse for exceptional care services only if the SNF/Ped provider agrees to the following conditions:

- 1) The provider will maintain separate records regarding costs related to the care of the exceptional care residents.
- 2) The provider must meet all conditions of participation in accordance with 42 CFR 483, Subpart I, Conditions of Participation for Intermediate Care Facilities for the Mentally Retarded [1996]. If the provider is not in compliance with a condition of participation and such noncompliance is under appeal, the Department BMHBB will delay action on the provider's application to participate in the exceptional care program pending the official determination by DPH that any and all of the conditions leading to the notification have been satisfactorily resolved outcome-of-the-hearing.

- 3) The provider must demonstrate the capacity and capability to provide exceptional care as documented by DPH and Department BMHBB records, including, but not limited to, being free of Type A violations and/or conditional license brought upon by violations relating to health care services. If the Type A violation and/or conditional license is under appeal, the Department BMHBB will delay action on the provider's application to participate in the exceptional care program pending the satisfactory outcome of the action of DPH taken in regard to the facility's noncompliance with conditions of participation or the proper implementation of a plan of correction for a licensure

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finding hearing. Newly licensed facilities are not immediately eligible to participate in the exceptional care program. An assessment may be made jointly by DPH and the Department to determine if the facility demonstrates the capacity and capability to provide exceptional care prior to the facility being open for 12 months. This assessment may be done prior to a facility having been open for 12 months when 15% or more licensed beds are filled with Medicaid eligible residents to present an accurate representation of the facility's ability to care for more medically involved individuals as determined by DPH.

- 4) For the purposes of this Section, a newly licensed facility is one that has never been licensed before, that has reopened after having discharged all residents or that has changed the focus of its operations (e.g., from ICF/SNF to ICF/MR or SNF/Ped). Facilities that were already participating in the Exceptional Care Program and are sold to a new licensee are not considered newly licensed.

- 5) The provider must maintain and provide documentation demonstrating:
 - A) Adherence to staffing requirements as described in subsection (c) of this Section;
 - B) Adherence to staff training requirements as described in subsection (d) of this Section;
 - C) Written agreements as required in subsection (e) of this Section;
 - D) Presence of emergency policy and procedures as described in subsection (f) of this Section;
 - E) Medical condition of the resident; and
 - F) Care, treatments and services provided to the resident.

65) When residents are mechanically supported, the provider must have and maintain physical plant adaptations to accommodate the necessary equipment, e.g., emergency electrical backup system. The provider shall maintain records demonstrating the facility's maintenance of emergency equipment. Staff must be familiar with the location and operation of the emergency equipment and related procedures. To assure that staff are familiar with operating the emergency equipment, facilities must provide quarterly in-service training for all staff caring for residents.

c) Exceptional Care Staffing Requirements

Staffing--requirements--for--facilities--providing--exceptional--care include:

- 1) There shall be at least one registered nurse 24 hours a day seven days per week in the facility. Based on the Department's review of the exceptional care services needs, additional registered nurse staff may be determined necessary by the Department BMHBB to implement the medical care plan and meet the needs of the individual.

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- 2) There shall be at least one registered nurse or licensed practical nurse on duty at all times and on each floor housing residents (as required by DPH in 77 Ill. Adm. Code 390.1040(b)).
- 3) For those facilities providing complex respiratory or ventilator services under exceptional care, there shall be a certified respiratory therapist technician or registered respiratory therapist on staff or on contract with the facility.
- d) Training Requirements for Facilities Providing Exceptional Care for Persons with Tracheostomies and Ventilator-Dependent Residents
 - 1) At least one of the full-time professional nursing staff members must have successfully completed a course in the care of ventilator-dependent individuals and the use of ventilators, conducted and documented by a certified respiratory therapist or registered respiratory therapist or a qualified registered nurse who has at least one year's documented experience in the care of ventilator-dependent persons within the last three years. This nursing staff member must receive annual continuing education/in-service training on the care of ventilator-dependent individuals. This requirement may be alternatively satisfied if the facility employs on staff a certified respiratory therapy technician or registered respiratory therapist.
 - 2) All staff caring for ventilator-dependent residents must have documented in-service training in ventilator care prior to providing such care. In-service training must be conducted at least annually by a certified respiratory therapy technician, a registered respiratory therapist or a qualified registered nurse who has at least one year's experience in the care of ventilator-dependent persons. In-service training documentation shall include name and qualifications of the in-service director, duration of presentation, content of presentation and signature and position description of all participants.
 - 3) All staff caring for persons with tracheostomies must have documented in-service training in tracheostomy care, other related medically complex procedures and infection control/universal precautions, prior to providing such care. In-service training documentation shall include the name and qualifications of the in-service director, duration of presentation, content of presentation and signature and position description of all participants. The in-services should address all extraordinary situations and/or aspects of care.
- e) Exceptional Care Agreement Requirements
 - 1) The provider must have a valid written agreement with:
 - 1) A medical equipment and supply provider which must include a service contract for ventilator equipment when accepting ventilator-dependent residents. Supplies include oxygen, oxygen concentrator, tracheostomy supplies and any other items needed for the services to be delivered;

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- 2) A local emergency transportation provider;
- 3) A hospital capable of providing the necessary care for equipment-dependent residents, when appropriate; and
- 4) A certified respiratory therapy technician or registered respiratory therapist (unless a respiratory therapist is on staff within the facility) when accepting ventilator-dependent residents or residents requiring respiratory therapy services.
- f) Exceptional Care Emergency Policy and Procedures Requirements
 - The provider must have specific written policies and procedures addressing emergency care for residents requiring exceptional care.
 - g) Accessibility to Records
 - The provider must make accessible to the Department BMHBB, DPA and/or DPH all facility, resident and other records necessary to determine the appropriateness of exceptional care services.
 - h) Provider Approval and Voluntary Termination Process
 - 1) A provider should notify the Department BMHBB, in writing, of its interest in participating in the Exceptional Care Program.
 - 2) The Department BMHBB shall conduct a review of the facility to assure that the facility meets all the exceptional care requirements contained in this Section.
 - 3) The Department BMHBB shall notify the provider in writing of its approval for exceptional care services.
 - 4) Providers desiring to discontinue provision of exceptional care shall notify the Department BMHBB, in writing, at least 60 days prior to the date of termination. Payment for exceptional care residents already residing in facilities which notify the Department BMHBB that they wish to discontinue providing exceptional care services will be reduced to the facility's standard Medicaid per diem rate at the time exceptional care services are discontinued. The Department BMHBB will review each approved exceptional care client to determine whether he or she may remain in the facility. For the duration of the time that exceptional care clients remain in the facility, the provider must continue to meet the needs of the individual. Should a transfer to another facility be necessary, the provider must contact the responsible case coordinating agency which will assist in locating another provider.
 - 5) It is the responsibility of a SNF/Ped provider to effect appropriate discharge planning for exceptional care residents when terminating services for exceptional care. The Department BMHBB will assist providers with any information available regarding appropriate placement settings.
 - i) Determining Eligibility for Exceptional Care Payment
 - 1) A person currently residing in a SNF/Ped, or a person being discharged from a hospital or a person who is those-who-are in another setting must be approved by an authorized Department BMHBB representative to be eligible for exceptional care payment.
 - 2) Eligible items which may be used in computing the cost of the

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person's care include nursing services costs, therapy services costs, and medical equipment and supply costs. Computations for determining cost of care shall be based upon reasonable costs for services, medical equipment and supplies for the facility as determined by the Department BMHBB.

- 3) The provider must submit a request for exceptional care to the Department BMHBB. An authorized Department BMHBB representative will conduct a medical review of the required care and related costs of equipment and supplies. The Department BMHBB will compute the exceptional care rate as the licensed staff cost in excess of the licensed staff cost of the standard rate methodology of the medical level III add-on plus a related cost factor of 15 percent for equipment and supplies. The Department BMHBB will notify the provider of the rate to be paid for the exceptional care services provided.

j) Monitoring

- 1) The Department BMHBB shall provide for a program of delegated utilization review and quality assurance.
- 2) The Department BMHBB shall review exceptional care residents' utilization of services at least once every 90 days. A review may be waived by the Department BMHBB staff if one or more previous reviews assessments show that a resident's condition has stabilized. However, two consecutive reviews shall not be waived. The Department BMHBB exceptional care staff will maintain contact with the SNF/Ped regarding the resident's condition during the time period any review assessment is waived. In the event that it is determined that the resident is no longer in need of or is no longer receiving exceptional care services, the Department BMHBB shall discontinue the exceptional care payment rate for the resident and reduce the rate of payment to the provider to the facility's standard Medicaid per diem rate, effective the later of either the date of the review or the determination by the Department BMHBB. Notice of this action shall be sent to the provider within 30 days.
- 4) Providers shall be reviewed annually to determine whether they continue to meet all the criteria to participate in the exceptional care program. If the annual review indicates the facility does not meet the exceptional care criteria or the resident is no longer in need of or is no longer receiving exceptional care services, the Department BMHBB shall terminate the agreement. If the Department terminates the agreement, the agreement, the exceptional care rate will be reduced to the facility's standard Medicaid per diem rate. Termination of the agreement shall be effective 30 days after the date of the notice. The Department BMHBB will review each formerly approved exceptional care client to determine whether he or she may remain in the facility. For the duration of the time that formerly approved exceptional care clients remain in the

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facility, the provider must meet the needs of the individual. If should a transfer to another facility is be necessary, the provider must contact the responsible case coordinating agency which will assist in locating another provider.

(Source: Amended at 23 Ill. Reg. 932 ~~2.13~~ effective
JAN 6 1999)

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- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Numbers:

<u>Adopted Action:</u>
112.1 Amendment
112.9 Amendment
112.70 Amendment
112.72 Amendment
112.74 Amendment
112.78 Amendment
112.79 Amendment
112.80 Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].
- 5) Effective Date of Amendments: January 6, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 24, 1998 (22 Ill. Reg. 13286)
- 10) Has JCAR Issued a Statement of Objections to this Rule? No
- 11) Difference(s) between proposal and final version: The following changes were made in the text of the proposed amendments:
 1. In Sections 112.1(a) and (b), "federal TANF work requirement" was changed to "State TANF Work Requirement".
 2. In Section 112.1(b)(1); the semi-colon was underlined.
 3. Section 112.9(a)(4) has been changed to read as follows:

"by designing a Responsibility and Services Plan (RSP) appropriate for their situation, signing the RSP and following through on the activities agreed to in the RSP. An applicant who refuses to cooperate in designing or signing an RSP is not eligible for TANF cash assistance. An applicant who refuses to follow through or fails,

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- without good cause, to follow through with the activities agreed upon in the RSP is also ineligible for TANF cash assistance."
4. In Section 112.9(b), "without good cause" was added after "working".
 5. Section 112.72 was numbered correctly.
 6. In Section 112.78(a), the strike thru was deleted from "who are not working"
 7. Section 112.78(a)(3)(F) has been changed to read as follows:

"Except for individuals attending high school, participation in Education (Below Post-Secondary) is limited to 24 months except that the individual may continue in the education program if he or she also works for at least 20 hours each week and the combined hours of work plus credit hours or class hours, as appropriate, equal at least 25 hours each week. Months in which the individual establishes good cause (see Section 112.80) for not participating in the program will not count toward the 24-month limit."
 8. In Section 112.78(b), "12 months or" was deleted, the strike thru was deleted from "than two years" and the comma after "job skills training," was underlined and the final sentence was struck.
 9. Section 112.78(b)(1)(F) has been changed to read as follows:

"Clients who are working at least 20 hours per week and whose combined work plus credit hours or class hours, as appropriate, equal at least 25 hours each week may be approved for vocational training after the two- year limitation."
 10. In Section 112.78(e)(2)(B), "job search" was capitalized.
 11. In Section 112.78(e)(3), "Reassessment" was changed to "Review", "reassessed" was changed to "reviewed", "participants" was inserted after "benefit" and "subsections" was pluralized.
 12. Section 112.78(h) has been changed to read as follows:

"Clients who are not working will not be approved for degree programs unless they can complete the program in one year or less. Clients who are working at least 20 hours per week and whose combined work plus credit hours or class hours, as appropriate, equal at least 25 hours per week may be approved for post-secondary education programs beyond the one-year limitation. Post-secondary education must..."
 13. "Clients who are not working will not be approved for degree programs unless they can complete the program in one year or less. Clients who are working at least 20 hours per week and whose combined work plus credit hours or class hours, as appropriate, equal at least 25 hours per week may be approved for post-secondary education programs beyond the one-year limitation. Post-secondary education must..."
- No changes have been made to the remainder of the Section.

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14. Section 112.78(h)(1)(L), was revised as follows:

"The individual, unless enrolled in a program that will be completed in one year or less ~~full-time, short-term-vocational-training-program of less than two years~~, must also be employed in unsubsidized work for at least 20 hours each week or be participating for at least 20 hours per week in one or more of the following paid or unpaid work activities:

- i) work study;
- ii) practicums, clinicals, or vocational internships such as student teaching, if required by the institution to complete the educational program;
- iii) apprenticeships;
- iv) self-employment; or
- v) enrollment as a full-time Americorps VISTA volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (41 USC 4951 et seq.).

In addition, the combined work or work activities plus credit hours or class hours, as appropriate, must equal at least 25 hours per week.

15. In Section 112.78(h)(1)(N), "of", "least" and "20 hours per week" were struck, "the required" was deleted and "at the State TANF Work Requirement level" was added before "by".
16. In Section 112.78(1), "for 20 hours per week" was struck and "at the State TANF Work Requirement level" was inserted after "be".
17. Section 112.78(o) was renumbered as Section 112.78(m).
18. In Section 112.78(m)(2), "Time" was struck.
19. In Section 112.78(m)(5)(B)(ii), "If the value of the participant's TANF grant plus food stamps divided by the 80 or 120, respectively, does not equal the federal minimum wage, then the hours will be reduced accordingly. If the participant does not work 80 hours per month for single-parent cases or 120 hours per month for two-parent cases, the reduction per hour not worked will be the amount of the grant divided by 80 hours or 120 hours, respectively. The maximum number of hours worked cannot exceed the amount of TANF and food stamp allotment divided by the minimum wage." was inserted after "food stamps".
20. In Section 112.78(m)(5)(B)(iii), "and 20 hours of community service" was deleted and "per month" was struck.
21. Sections 112.78(m)(6)(A) and (B) and 112.78(n)(9)(A) and (B) were numbered correctly.

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22. In Sections 112.78(m)(6)(B) and 112.78(n)(9)(B), "or" was changed to "in". 23. Section 112.78(p) was renumbered as 112.78(n).

24. Section 112.78(n)(2) has been changed to read as follows:

"Individuals in a TANF case, assigned to Work First, must participate in Work First an average of at least 20 hours each week to earn their TANF grant and food stamps plus 5 employer contacts per week. If the participant does not work 80 hours per month, the reduction per hour not worked will be the amount of the grant divided by 80 hours."

25. Section 112.78(n)(3) has been changed to read as follows:

"Nonexempt individuals in a two-parent TANF case must participate an average of at least 30 hours each week in Work First and 5 employer contacts per week. If the individuals do not work 120 hours per month, the reduction per hour not worked will be the amount of the grant divided by 120 hours."

27. New Section 112.78(n)(4) was added as follows:

" If the value of the participant's TANF grant plus food stamps divided by 80 or 120, respectively, does not equal the federal minimum wage, then the hours will be reduced accordingly."

28. In Section 112.78(n)(7), "Section 112.78(s)" was changed to "subsection (q) of this Section".

29. In Section 112.78(q)(7), "(s)(1)" was changed to "(g)(1)".

30. In Section 112.79(b), "without good cause" was added after "following".

31. In Section 112.79(b)(6), "of" was changed to "after".

No other substantive changes have been made in the text of the proposed amendments.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will this rule replace an Emergency Rule currently in effect? Yes

- 14) Are there any amendments pending on this Part: Yes

Section Numbers	Proposed Action	Illinois Register Citation
112.255	Repeal	22 Ill. Reg. 16135

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15) Summary and Purpose of Amendments:Section 112.1

These amendments revise the number of hours required to stop the 60-month clock for TANF recipients. This change is being made to coordinate State funding of TANF cash benefits with the federal TANF work requirement.

This rulemaking will allow the Department to provide assistance from State-only funds to those individuals working the required number of hours as federally mandated for work participation. This change is intended to reward and encourage work while motivating clients to become self-sufficient. In addition, this change will enable staff to inform clients of the work requirement for periods beyond the current year.

These proposed amendments establish that as the federal work requirement increases each federal fiscal year, category 04 clients must work more hours to avoid the federal lifetime limit and TANF category 06 clients will have a one-time increase from 20 to 35 hours per week. The federal TANF work requirement is as follows:

31. For Category 06 (two parent) cases - 35 hours per week in FFY 1999 and after.

32. For Category 04 cases - 20 hours per week in FFY 1998,
25 hours per week in FFY 1999,
30 hours per week in FFY 2000
and after.

As a result of these proposed amendments, months in which the family has reported weekly hours of employment equal to or greater than the federal TANF work requirement will not count toward the 60-month limit.

Section 112.9

These amendments are in support of the goal of moving TANF clients towards financial independence by encouraging them to find employment. These changes reflect the temporary nature of TANF by requiring TANF applicants to take steps to seek or maintain employment and to move toward self-sufficiency.

This rulemaking establishes that, as a condition of eligibility, clients must cooperate by engaging in activities that will result in employment. This requirement pertains to cash assistance only. Individuals with a recent work history or who have adequate skills to immediately pursue employment, will be required to seek employment. In addition, applicants who are not employment ready will be required to participate in

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education/training activities that will enable them to become work ready. Applicants who are teen parents who do not have a high school diploma or GED, will be required to enroll in school or in a GED program. TANF applicants who quit working during the application process will not be eligible for cash assistance.

These amendments also change the time period, during the application process, for the client to provide information from a 10-day period to a reasonable period. This change is being made in order to provide flexibility to the client and the worker and so that the decision process is not delayed.

Sections 112.70, 112.72, 112.74, 112.78, 112.79 and 112.80

These amendments make a number of changes to the Department's TANF Employment and Work Activity Requirements. Many of the changes are technical in nature, cleaning up the language to conform to the new TANF program rather than the old AFDC program. However, there are some significant changes which should be highlighted.

1. There are no longer "volunteers". While some people remain "exempt" from actual work activities, all clients will have a Responsibility and Services Plan and will be engaged in some activities.

2. Current rules are clarified to make it clear that a referral to participate in employment and work activities or failure to appear for an assessment interview will result in ineligibility rather than a sanction.

3. Clarification is made that Representative Payees need not create a Responsibility and Services Plan.

4. Clarification is made that clients may be assigned to Job Search activities and sent on job referrals prior to a full Family Assessment.

5. The definition of "job ready" is revised to coincide with the definition required under the "Welfare-to-Work" Program.

6. References to participation in 75% of classes as adequate for education activities is removed. Participation requirements will be measured by satisfactory progress according to the institution.

7. References to "good faith effort" are removed. All such issues will be handled as part of the reconciliation/good cause process.

8. "Unemployed Parents Work Experience" is eliminated as a separate category and subsumed under "Community Work Experience".

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9. The "Get a Job Initiative" is being eliminated. This was a demonstration project under AFDC. It no longer need be under TANF. Rather than treat Job Ready clients at intake with children 5-12 years old differently than other clients, these Get a Job clients will also be treated individually and placed into activities appropriate to their situation. The federal waiver will be eliminated.

16) Information and answers to questions regarding these adopted amendments shall be directed to:

Mrs. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

The full text of Adopted Amendments begin on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

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112.1	Description of the Assistance Program
112.5	Incorporation by Reference
	SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
112.20	Residence
112.30	Age
112.40	Relationship
112.50	Living Arrangement
112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
112.60	Basis of Eligibility
112.61	Death of a Parent (Repealed)
112.62	Incapacity of a Parent (Repealed)
112.63	Continued Absence of a Parent (Repealed)
112.64	Unemployment of the Parent (Repealed)
112.65	Responsibility and Services Plan
112.66	Alcohol and Substance Abuse Treatment
112.67	Restriction in Payment to Households Headed by a Minor Parent
112.68	School Attendance Initiative
112.69	Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section	
112.70	Employment and Work Activity Requirements
112.71	Individuals Exempt from TANF Employment and Work Activity Requirements
112.72	Participation/Cooperation Requirements
112.73	Adolescent Parent Program (Repealed)
112.74	Responsibility and Services Plan
112.75	Teen Parent Personal Responsibility Plan (Repealed)
112.76	TANF Orientation
112.77	Reconciliation and Fair Hearings

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112.78 TANF Employment and Work Activities
112.79 Sanctions
112.80 Good Cause for Failure to Comply with TANF Participation Requirements
112.81 Responsible Relative Eligibility for JOBS (Repealed)
112.82 Supportive Services
112.83 Teen Parent Services
112.84 Work Experience Evaluation Project (Repealed)
112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section
112.86 Project Advance (Repealed)
112.87 Project Advance Experimental and Control Groups (Repealed)
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90 Project Advance Sanctions (Repealed)
112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
112.93 Individuals Exempt From Project Advance (Repealed)
112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section
112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section
112.100 Unearned Income
112.101 Unearned Income of Stepparent or Parent
112.105 Budgeting Unearned Income
112.106 Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision
112.107 Initial Receipt of Unearned Income
112.108 Termination of Unearned Income
112.110 Exempt Unearned Income
112.115 Education Benefits
112.120 Incentive Allowances
112.125 Unearned Income In-Kind
112.126 Farmarked Income
112.127 Lump-Sum Payments
112.128 Protected Income (Repealed)
112.130 Earned Income
112.131 Earned Income Tax Credit

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112.132 Budgeting Earned Income
112.133 Budgeting Earned Income of Employed Applicants
112.134 Initial Employment
112.135 Budgeting Earned Income For Contractual Employees
112.136 Budgeting Earned Income For Non-Contractual School Employees
112.137 Termination of Employment
112.138 Transitional Payments (Repealed)
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112.300 Persons Who May Be Included in the Assistance Unit
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112.306 Foster Care Program
112.307 Responsibility of Sponsors of Non-Citizens Entering the County Prior to 8/22/96
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- After 8/22/96
- 112.309 Institutional Status
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- 112.315 Young Parent Program (Renumbered)
- 112.320 Redetermination of Eligibility
- 112.330 Extension of Medical Assistance Due to Increased Income from Employment
- 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
- 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
- 112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)
- SUBPART J: CHILD CARE
- Section
- 112.350 Child Care (Repealed)
- 112.352 Child Care Eligibility (Repealed)
- 112.354 Qualified Provider (Repealed)
- 112.356 Notification of Available Services (Repealed)
- 112.358 Participant Rights and Responsibilities (Repealed)
- 112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
- 112.364 Rates of Payment for Child Care (Repealed)
- 112.366 Method of Providing Child Care (Repealed)
- 112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

- Section
- 112.400 Transitional Child Care Eligibility (Repealed)
- 112.404 Duration of Eligibility for Transitional Child Care (Repealed)
- 112.406 Loss of Eligibility for Transitional Child Care (Repealed)
- 112.408 Qualified Child Care Providers (Repealed)
- 112.410 Notification of Available Services (Repealed)
- 112.412 Participant Rights and Responsibilities (Repealed)
- 112.414 Child Care Overpayments and Recoveries (Repealed)
- 112.416 Fees for Service for Transitional Child Care (Repealed)
- 112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2

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- Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective June 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28,

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1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a

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maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18

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Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; amended at 23 Ill. Reg. 4341, effective JAN 6 1999.

SUBPART A: GENERAL PROVISIONS

Section 112.1 Description of the Assistance Program

- a) The program provides temporary assistance for needy families. Clients are limited to 60 months of benefits as an adult. This is a lifetime limit and includes cash benefits received both in Illinois and other states. Months in which the family has reported weekly hours 20-hours per-week will not count toward the 60-month limit. Months in which a family head is a teen parent under age 18 will not count toward the 60-month limit. All parents or caretakers must engage in work

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activities within 24 months or, if earlier, when determined able to work.

b) The State TANF Work Requirement is as follows:

- 1) For Category 06 (two parent) cases - 35 hours per week in FFY 1999 and after;
- 2) For Category 04 cases - 20 hours per week in FFY 1998, 25 hours per week in FFY 1999, 30 hours per week in FFY 2000 and after.

(Source: Amended at 23 Ill. Reg. 4341, effective JAN 6 1999)

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 112.9 Client Cooperation

a) As a condition of eligibility, clients must cooperate:

- 1) in the determination of eligibility;
- 2) with Department programs conducted for the purposes of acquisition or verification of information upon which eligibility may depend;
- 3) in applying for all financial benefits for which they may qualify and to avail themselves of such benefits at the earliest possible date;
- 4) by designing a Responsibility and Services Plan (RSP) appropriate for his or her situation, signing the RSP and following through on the activities agreed to in the RSP. An applicant who refuses to cooperate in designing or signing an RSP is not eligible for TANF cash assistance. An applicant who refuses to follow through on activities agreed upon in the RSP is also ineligible for TANF cash assistance.

b) TANF applicants who quit working without good cause during the application process are not eligible for cash assistance.

c) Clients are required to avail themselves of all potential resources.

d) When eligibility cannot be conclusively determined because the individual is unwilling or fails to provide essential information or to consent to verification, the client is ineligible.

e) At screening, applicants shall be informed, in writing, of any information they are to provide at the eligibility interview.

f) At the eligibility interview or at any time during the application process, when the applicant is requested to provide information in his or her possession, the Department will allow a reasonable period ten (10)-days for the return of the requested information. The first day of the ten-(10)-day period is the calendar day following the date the information request form is sent or given to the applicant. The last day of the ten-(10)-day period shall be a work day and is to be indicated on the information request form. If the applicant does not provide the information by the date on the information request form,

the application shall be denied on the following work day.
gf) At the eligibility interview or at any time during the application process, when the applicant is requested to provide third party information, the Department shall allow a reasonable period ~~ten~~ ten ~~days~~ for the return of the requested information or for verification that the third party information has been requested. The first day of the ~~ten~~ ten ~~day~~ period is the calendar day following the date the information request form is sent or given to the applicant. The last day of the ~~ten~~ ten ~~day~~ period shall be a work day and is to be indicated on the information request form. It is to be indicated on the information request form that the applicant shall provide written verification of the request for the third party information. If the applicant does not provide the information or the verification that the information was requested by the date on the information request form, the application shall be denied on the following work day.

- 1) Third party information is defined as information which must be provided by someone other than the applicant. An authorized representative or person applying on another's behalf is not a third party but is treated as if he were the applicant.
- 2) The Department shall advise clients of the need to provide written verification of third party information requests and the consequences of failing to provide such verification.
- 3) If the applicant requests an extension, either verbally or in writing, in order to obtain third party information and provides written verification of the request for the third party information such as a copy of the request that was sent to the third party, an extension of ~~ninety~~ ninety ~~90~~ days from the date of application shall be granted. The first day of the ~~ninety~~ ninety ~~90~~ day period is the calendar day following the date of application. The 90th day must be a work day.
- 4) If an applicant's attempt to obtain third party information is unsuccessful, upon the applicant's request the Department will assist in securing evidence to support the client's eligibility for assistance.

(Source: Amended 106 23 Ill. Reg. 042 effective 1/1/06)

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section 112.70 Employment and Work Activity Requirements

Sections 112.70 through 112.83 describe the employment and work activity requirements for TANF clients and clients receiving family assistance from State funds only. The purpose of TANF is to provide temporary assistance to needy individuals and families and assist them in obtaining education, training and employment to help avoid long-term welfare dependence. The TANF Program will focus on enhancing the long-term employability of TANF clients by

assessing the individual capabilities of each participant, using the Family Assessment to create a Responsibility and Services plan to match the participant to a suitable activity and employment goal. The program will offer a wide variety of intensive activities aimed at assisting the participant to acquire the education and/or work skills needed to meet the demands of the current labor market as well as in the future and to become self-sufficient. After 24 months of TANF receipt, participants will be working or participating in a work activity as specified in the Responsibility and Services plan in order to remain eligible for TANF. Work activities are appropriate activities to remove barriers to successful employment and to prepare TANF participants to achieve progress toward self-sufficiency. The level of TANF employment or work activities in the State as a whole and in different counties of the State may vary depending upon available resources. Program services may be provided directly by the Department or through contract. References to the Department or staff of the Department shall include contractors when the Department has entered into contracts for program services. In areas where the Department has contracted with community colleges, the program is called Opportunities. References to TANF and TANF participants shall include Opportunities and Opportunities participants.

- a) Both ~~exempt~~ and nonexempt individuals ~~receiving TANF~~ may participate in education and/or work activities when State resources permit ~~Nonexempt individuals receiving TANF are required to participate in education and/or work activities only to the extent there are resources available~~ Participation in education and/or work activities may be mandated for nonexempt individuals. Initially, one parent in a two-parent household will be required to participate in a work and/or work activity or other appropriate activity. Participation may be limited based on activity cost or available funds for supportive services for participating individuals.
- b) Education ~~and/or work activities services will also be offered to individuals who are exempt and volunteer to participate to the extent resources allow~~ Exempt individuals who volunteer to participate become a program participant when assigned to an activity. Participation may be limited for volunteers if State resources are insufficient Nonexempt individuals who are mandated to participate but fail to participate without good cause will be sanctioned.

c)

In addition to work activities described in Section 112.78, work activities for TANF participants may also include:

- a) a program in accordance with a plan developed with a provider of domestic violence services;
- b) a program to treat alcohol or drug abuse in accordance with the Responsibility and Services Plan;
- c) a program to treat mental health disorders in accordance with the Responsibility and Services Plan;
- d) participation ~~for at least 20 hours per week~~ in VISTA, Job Corps, some paid JTPA programs, or work study for cash or financial credit for education expenses;

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- e5) self-employment and micro enterprise activities in accordance with the Responsibility and Services Plan; and
- f6) foster parenting consistent with the Responsibility and Services Plan.

(Source: Amended at 23 Ill. Reg. 6 42 13 effective JAN 6 1996)

Section 112.72 Participation/Cooperation Requirements

- a) An individual is required to participate in a TANF employment or work activity by:

- 1) Cooperating with TANF requirements. Cooperation with TANF is defined as providing requested information about employment history and capabilities, appearing for scheduled meetings, participating in assessments and complying with the requirements of the TANF activities identified in Section 112.78.
- 2) Responding, timely, to a job referral of suitable employment (that is, a written statement referring a participant to an employer for a specific position).
- 3) Accepting a bona fide offer of suitable employment. An individual must be given the opportunity to explain why a bona fide offer of employment was not accepted. A bona fide offer of suitable employment is where:

A) there was a definite offer of employment substantiated by written confirmation from the prospective employer at wages meeting any applicable minimum wage requirements and which are customary for such work in the community based on information obtained from the Department of Employment Security;

B) there are no questions as to the individual's ability ~~inability~~ to engage in such employment for physical reasons or because he has no way to get to or from the particular job; and

C) there are no questions of working conditions, such as risks to health, safety or lack of worker's compensation protection or lack of other workplace rights due TANF recipients according to the U.S. Department of Labor.

- 4) Department employment referrals are deemed suitable if they meet the following criteria:

A) wages offered must be at least the greater of:

- i) the federal minimum wage; or
- ii) the State minimum wage.

B) Subminimum training wages offered must be at least the greater of:

- i) the federal subminimum training wage; or
- ii) the State subminimum training wage.

C) If the wages are offered on a piece-rate basis, wages for a beginner must equal the amount the participant can

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reasonably be expected to earn as outlined in subsection(a)(4)(A) of this Section.

- D) There is no unreasonable degree of risk to the participant's health and safety.

E) The participant may not be required as a condition of employment to join, resign from or refrain from joining any legitimate labor organization.

- 5) Participants must register and appear for interviews at the Illinois Employment and Training Center (IETC) or Department of Employment Security's Job Service offices when required by a TANF activity.

- b) Additionally, participants who are part-time employed must:

- 1) continue their part-time employment; and
- 2) not voluntarily reduce their work hours, unless such reduction is consistent with the next steps in the Responsibility and Services Plan.

c) Failure of an ~~a nonexempt~~ individual ~~who is mandated~~ to participate/cooperate with the TANF employment and work activity requirements listed in this Section, without good cause, will result in sanction as outlined in Section 112.79. ~~Exempt individuals--who volunteer to participate in TANF and are assigned to an activity-based on completion of a Family Assessment and a Responsibility and Services Plan--will be sanctioned--if they thereafter do not meet the program requirements without good cause--(see Section 112.79).~~

d) Failing to achieve certain grades or competency levels or goals in educational, training or work activity shall not constitute failure to participate in TANF but shall be addressed through a review of the Responsibility and Services Plan reassessment requested by the participant or Department.

e) Refusal of an individual to participate in TANF employment and work activities shall make the case ineligible if the person is required to be in the assistance unit. If the individual is not required to be in the assistance unit, that individual shall be ineligible for cash assistance.

(Source: Amended at 23 Ill. Reg. 6 42 13 effective JAN 6 1996)

Section 112.74 Responsibility and Services Plan

- a) Family Assessment to Develop a Responsibility and Services Plan
- 1) All individuals shall undergo a Family Assessment to develop a Responsibility and Services Plan. This provision does not apply to individuals acting as Representative Payees for child-only cases.

2) The Family Assessment shall include collection of information on the individual's and family's background, proficiencies, skills deficiencies, education level, work history, employment goals,

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interests, aptitudes and employment preferences, as well as factors affecting employability or ability to meet participation requirements (for example, eligibility for exemption, health, physical or mental limitations, child care, domestic violence, substance abuse, family circumstances and problems including the need of any child of the individual). As part of the assessment process, individuals and TANF staff shall work together to identify any supportive service needs required to enable them to participate in TANF employment or work activities and meet the objectives of their Responsibility and Services Plan (see Section 112.82). The Family Assessment may be conducted through various methods such as interviews, testing, counseling and self-assessment instruments.

- 3) The Family Assessment and Responsibility and Services Plan must:
 - A) contain an employment goal of the participant and the steps to achieve it;
 - B) describe the services to be provided by the agency including child care and other supportive services;
 - C) describe the activities such as activity assignment that will be undertaken by the participant to achieve the employment goal; and
 - D) describe any other needs of the family that might be met by TANF such as participation by a child in drug education or in life skills planning sessions.
- 4) The Responsibility and Services Plan shall take into account:
 - A) the participant's supportive service needs;
 - B) the participant's skills level and aptitudes;
 - C) local employment opportunities;
 - D) to the maximum extent possible, the preferences of the participant;
 - E) final approval of the plan rests with the DHS staff pursuant to TANF program requirements; and
 - F) the participant will sign and receive a copy of the Responsibility and Services Plan.
- b) Occurrence of the Family Assessment and Responsibility and Services Plan
 - 1) The Family Assessment shall take place before a participant is assigned to an employment and work TANF activities, except individuals may be assigned to up to four weeks of Job Search or sent to known job interviews prior to the Family Assessment.
 - 2) The participant will be notified, in writing, of the Family Assessment meeting.
- c) During the Family Assessment, the Responsibility and Services Plan will be completed to determine the individual's and family's level of preparation for employment and needed services. Upon initial screening, a determination for job readiness will be based on an individual having a high school diploma/GED, not requiring substance abuse treatment, and having worked more than three consecutive six

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months in the last 12 calendar months two years. This determination needs to be considered in conjunction with other issues such as the individual's barriers, the local labor market, and the work place skill of the client. The preference of the individual will be taken into account in the development of the Responsibility and Services Plan to the maximum extent possible and appropriate. As part of the assessment process, individuals and TANF staff may work together to identify any supportive service needs required to enable them to participate in employment and work TANF and meet the objectives of their Responsibility and Services Plan (see Section 112.82). The assessment process shall include standard literacy testing and a determination of English language proficiency for those who display a potential need for literacy or language services. Literacy level is defined as reading at a 9.0 grade level or above. Based on the Responsibility and Services Plan, the individual will be assigned to the appropriate activity.

Review Reassessment

- d) Review Reassessment
 - 1) A review reassessment will be conducted to assess a participant's progress and to revise review the Responsibility and Services Plan, if needed. The review shall occur at least at the following times:
 - A) upon completion of a program or activity and before assignment to an activity;
 - B) upon the request of the participant;
 - C) if the individual is not cooperating with the requirements of the program;
 - D) if the individual has failed to make satisfactory progress in an education or training program;
 - E) upon completion of an academic term;
 - F) upon referral from DES, IETC, or other entities;
 - G) every six consecutive months for individuals participating in a Work-Experience activity-work assignment;
 - GH) every six months at a minimum; or
 - HI) at any time deemed appropriate under the Plan.
 - 2) The review reassessment may be conducted through various methods such as interviews, testing, counseling and self-assessment instruments. A written notice may be sent to the participant if the reassessment needs to be rescheduled.
 - 3) The review A reassessment will include an evaluation of the participant's progress towards the employment goal. If progress is lacking, the participant may be reassigned to a more appropriate activity.
 - e) If an a nonexempt individual who is required to participate in the program fails without good cause to appear for the scheduled assessment interviews or comply with the assessment process, without good cause, the case is ineligible individual is subject to sanction. If the nonexempt participant has good cause for failing to appear for the assessment--interview or to comply with the assessment process--a

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- 1) who do not have a high school degree or equivalent;
 ii) who have limited English proficiency; and
 iii) who do not read at or above a 9.0 grade level.
- B) Educational activities may be combined with other activities if it is determined appropriate.
- 2) Approval criteria for education (Below Post-Secondary)
- A) The program selected by the individual must be accredited under State law.
- B) The individual's program must be needed for the participant to complete his or her Responsibility and Services Plan.
- C) The individual must be enrolled full-time as defined by the institution or part-time if a full-time program is not available or appropriate.
- D) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

3) Participation Requirements

- A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.

B) ~~The individual must maintain participation of at least 75% of scheduled activities unless there is good cause for missing more.~~

BE) Clients attending a program administered by the Illinois State Board of Education (ISBE) must maintain satisfactory progress as determined by the following:

- i) active participation and pursuit of educational objectives;
 ii) teacher's written remarks;
 iii) grades;
 iv) demonstrated competencies;
 v) classroom exercises; and
 vi) periodic test/retest results.

CB) ISBE educational providers determine satisfactory progress based on a combination of the indicators listed above and test/retest results. The determination of satisfactory progress including test/retest results must be reported upon completion of the academic term or twice a year if the program is continuous for 12 months.

DB) Clients attending a program not administered by ISBE must maintain satisfactory progress as determined by the written policy of the institution. The determination of satisfactory progress including test/retest results must be reported upon completion of the academic term or twice a

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~~sanction will not apply.~~
 f9) TANF employment and work activity participation shall not be required in the event that supportive services are needed for effective participation but are unavailable from the Department or from some reasonably available source (for example, child care for a child under age 13).

~~h) Expenses for transportation and child care services will be provided to enable individuals to attend the assessment meeting if requested.~~
 g1) ~~Teen for-teen parents age 19 and under or in high school the teen parent have their own Responsibility and Services Plan defining the responsibilities the young parent must meet to receive TANF cash assistance and what services the Department agrees to provide. The plan outlines family needs, the required activities and necessary supportive services. The plan must be signed by both the young parent and the case manager. The plan sets the following goals for the young parent and describes how the Department will help the young parent meet these goals:~~

- 1) to attend school to complete a high school education;
- 2) to establish paternity for the young parent's child or children and obtain child support;
- 3) to improve the young parent's parenting skills; and
- 4) to seek and obtain full-time employment when job ready.

(Source: Amended at 23 Ill. Reg. 94233 effective Jan 6 2006)

Section 112.78 TANF Employment and Work Activities

- a) Education (Below Post-Secondary)
 Participants who are not working are limited to Adult Basic Education/GED/ESL and short-term Vocational Training programs lasting less than two years and may be required, in coordination with the education schedule, to participate in Job Readiness activities, job skills training, Job Search, and/or Work Experience at the same time they are attending the education/training program to the extent resources will allow. Co-enrollment in Adult Basic Education/GED/ESL and Vocational Training is encouraged. In this activity, the individual receives information, referral, counseling services and supportive services to increase the individual's employment potential. Participants may be referred to testing, counseling and education resources. Educational activities will include basic and remedial education; English proficiency classes; high school or its equivalency (for example, GED) or alternative education at the secondary level; and with any educational program, structured study time to enhance successful participation.

- 1) Assignment to Education (Below Post-Secondary)
 A) Individuals to be assigned to Education may include but are not limited to individuals:

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year if the program is continuous for 12 months.

EP) Curriculum changes must be made with the prior approval of TANF staff and will be approved when the change is consistent with the Responsibility and Services Plan.

F6) Except for individuals attending high school, participation in Education (Below Post-Secondary) is limited to 24 months except that the individual may continue in the education program if he or she also works for at least 20 hours each week and the combined hours of work plus credit hours or

class hours, as appropriate, equal at least 25 hours each week. Months in which the individual establishes good cause (see Section 112.80) for not participating in the program will not count toward the 24-month limit.

b) Vocational Training

Vocational Training is designed to increase the individual's ability to obtain and maintain employment. Vocational Training activities will include vocational skill classes designed to increase a participant's ability to obtain and maintain employment. Vocational Training may include certificate programs. Participants who are not working are limited to short-term Vocational Training programs lasting less than two years and may be required, in coordination with the education/training schedule, to participate in Job Readiness activities, job skills training, Job Search, and/or Work Experience at the same time they are attending the education/training program to the extent resources will allow. ~~A--Vocational--Training-program lasting-two-years-or-more--is--regarded-as--Post-Secondary--Education under-this-subsection-(b)-~~

1) Approval Criteria For Vocational Training

- A) The individual's program must be accredited under requirements of State law.
- B) The individual must be underemployed or unemployed and in need of additional training and the training will better prepare the participant to enter the labor force.
- C) Co-enrollment in Adult Basic Education/GED/ESL and Vocational Training is encouraged if the individual does not have a high school diploma or GED.
- D) The individual must apply for all available educational benefits such as the Pell Grant and scholarships from the Illinois Student Assistance Commission as well as any scholarship or grants identified by the education or training facility for which the participant may be eligible.
- E) The individual must be enrolled full-time as defined by the institution or part-time if full-time is not available or appropriate.
- F) Clients who are working at least 20 hours per week and whose combined work plus credit hours or class hours, as appropriate, equal at least 25 hours per week may be approved for vocational training after the two-year

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limitation. ~~may--be--approved---for---education---programs including---degree---programs,---to---upgrade---their---skills consistent-with-their-Personal-Responsibility-and-Services Plan---to-the-extent-resources-allow-~~

G) The individual must be in a program needed for the individual to obtain employment in a recognized occupation. Jobs must be available in the chosen field in a specific geographical area where the individual intends to work consistent with the individual's Responsibility and Services Plan upon completion.

I) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

J) Vocational Training may be combined with other activities if it is determined appropriate.

K) The individual must possess the aptitude, ability and interest necessary for success in the selected program as determined by such factors as test results and educational/training background.

2) Participation Requirements

A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.

B) The individual must maintain a "C" average if this measurement is used by the institution to determine satisfactory progress. The individual will be allowed one semester below a "C" average to bring the grades up to a "C" average. When grades are not used, progress will be determined by the written policy of the institution to establish a comparable grade level upon completion of the academic term.

C) The individual must participate the assigned number of hours each week.

D) The client must complete all scheduled program enrollment hours each academic term to maintain satisfactory progress, except in the following situation. If the client withdraws from one or more scheduled courses during an academic term, the client must complete all scheduled enrollment hours during the following academic term. The client may withdraw from one or more scheduled classes in more than one academic term, but must complete all scheduled enrollment hours the following academic term to maintain satisfactory progress.

E) Curriculum changes must be made with the prior approval of TANF and will be approved when the change is consistent with

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the Responsibility and Services Plan.

- c) Job Readiness
 - 1) The Job Readiness activities are designed to enhance the quality of the individual's level of participation in the world of work while learning the necessary essentials to obtain and maintain employment. These activities help individuals gain the necessary job finding skills to help them find and retain employment that will lead to economic independence.
 - 2) Assignment to Job Readiness
 - 3) Job Readiness activities may be combined with other activities if it is determined appropriate.
 - 4) Participation requirements
 - A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.
 - B) The individual must attend all scheduled classes or sessions. The individual must be making satisfactory progress as defined by the written policy of the job readiness provider and approved by the department. If there is a job search activity in the program, the individual must make up to ten acceptable employer contacts in a 30 day period unless the participant shows good faith effort (see subsection (d)(3)(B) of this Section for the definition of "good faith effort").
 - C) The individual must participate the number of assigned hours each week.
 - D) The individual must respond to a job referral, accept employment and respond to mail-in contact.
- d) Job Search
 - 1) Description of Job Search
 - A) Job Search may be conducted individually or in groups. Job Search may include the provision of counseling, job seeking skills, training and information dissemination. Group Job Search may include training in a group session.
 - 2) Assignment to Job Search
 - A) If assessed as job ready, participants will be assigned to Job Search. If job ready clients are unable to find employment on their own at-the-end-of-six-months, they will be reassessed and may be placed in a more appropriate activity within six months.
 - B) Individuals completing education or vocational training or Job Readiness training may be assigned to Job Search.
 - C) Job Search may be combined with other activities if it is determined appropriate.
 - 3) Participation Requirements
 - A) Participants must attend all scheduled classes or sessions. Participants will be notified in writing of all meetings.

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- B) Individuals must contact employers in an effort to secure employment. Participants must make up to 20 acceptable employer contacts in a 30-day period, unless the participant shows good faith effort. Good faith effort exists when circumstances beyond the control of the participant prevent the individual from making the required number of contacts. Good faith effort may include, but is not limited to, the following:
- ii) the participant appears for a scheduled interview and the employer misses the appointment;
 - iii) the participant makes less than the required number of acceptable employer contacts but came reasonably close to the required numbers in an effort to find work;
 - iiii) the participant fails a civil service or other employment screening test;
 - iv) the participant completes an application which is not accepted by the employer;
 - v) the participant's job search performance indicates that he or she should be in a different TANF activity; and
 - vi) the participant has less than the required number of employer contacts based on the lack of available jobs in the geographical area.
- C) Acceptable employer contacts may include but are not limited to:
- i) a face-to-face contact with an employer or the employer's representative;
 - ii) the completion and return of an application to an employer;
 - iii) the completion of a civil service test required for employment with state, local, or the federal government or the completion of a Department of Employment Security (DES) screening test;
 - iv) the completion and mailing of a resume with a cover letter to a recognized employer;
 - v) reporting to the union hall for union members verified to be in good standing; or
 - vi) registration with DES/Illinois Employment and Training Center (IETC).
- e) Community Work Experience
- TANF participants who have not found employment and who need orientation to work, work experience or training are placed on a supervised work assignment to improve their employment skills through actual Work Experience at private or not-for-profit employers, organizations and governmental agencies. Participants are referred to work assignments as vacancies are available. Participants in Work Experience may perform work in the public interest (which otherwise meets the requirements of this Section) such as enrollment as a

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full-time VISTA volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (42 USC 4951 et seq.) for a Federal office or agency with its consent, and, notwithstanding (31 USC 87-6 1342) or any other provision of law, such agency may accept such services but such participants shall not be considered to be Federal employees for any purpose.

1) Assignment to Community Work Experience

A) Community Work Experience is for:

- i) participants who will benefit from working for an employer who provides a subsidized employment assignment to improve the individual's opportunity to attain self-sufficiency; or
- ii) participants who need experience to prevent deterioration of, or to enhance, existing skills (for example, typing).

B) Entry into Community Work Experience

Participants are determined to be appropriate for Community Work Experience activity based on an assessment of their education, training and employment history. Procedures used in the assessment are a face-to-face meeting with the participant and a review of all available information on the participant (including, but not limited to, the individual's case record and Responsibility and Services Plan).

C) Community Work Experience Positions

Participants A-participant shall be assigned to a Community Work Experience position to increase the individual's potential for attaining employment. The date the participants participant are is scheduled to begin the work assignment marks the beginning of participation in Community Work Experience.

Community Work Experience activities may be combined with other activities if it is determined appropriate.

- D) Enrollment as a full-time VISTA volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (42 USC 4951 et seq.) is an allowable work activity. Paid work study and some paid JTPA programs are also allowable.

2) Participation Requirements

- A) The--hours--of-the-Work-Experience-assignment-may-not-exceed 20-hours-per-week-for-participants-in--single-parent--TANF cases. The hours of the work assignment for a calendar month shall not exceed the family's monthly TANF grant and food stamp allotment received--in-the-fiscal-month-during which-the-assignment-is-made divided by the higher of the State or Federal minimum wage, or--the--rate-of-pay-for individuals-employed-in-the-same-or-similar-occupations--by the--same-employer--at-the-same-site-(as-determined-by-the Work-Experience-Sponsor--and--the--Department)--(A--fiscal

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month--is--a--month--that--starts--with--a--given-day-in-one calendar-month-and-ends-with-the-day-before-that-same-given day--in--the--next--calendar-month--).--The-portion-of--a recipient's-aid-for-which-the-State-is-reimbursed-by-a-child support-collection-(except-for-the-\$50-pass-through)--shall be--excluded-in-determining-the-maximum-number-of-hours-that the-participant-is-required-to-work--in-order-to--provide consistency--for--both--work--assignment--sponsors--and participants--the-required-number-of-hours-will--be--rounded down--to--40--or-80-hours--The-minimum-number-of-hours-that must-be-completed-within-a-calendar-month-is--40--hours--and the--maximum-number--of--hours-that-must-be-completed-is-80 hours--

- B) During work assignment, the participants participant shall be required to perform Job Search job-search activities unless a the participant shows--good--faith--effort--(see subsection--(d)(3)(b))--of-this-Section-for-the-definition-of "good-faith-effort"--or-participates in an education and training program programs. Participants are required to accept bona fide offers of employment pursuant to Section 112.72.

- C) Participants are also required to report as scheduled and on time to their work assignment Sponsor when notified of an assignment. When they cannot report to their work assignment or if they will be late, they are to immediately notify their work assignment Sponsor.

- D) Participants The-individual must participate the number of assigned hours each week.

3) Review Reassessment

Every six months, the participant's Responsibility and Services plan will be reviewed reassessed. If continuing the work assignment will benefit participants the-participant in terms of furthering work skills (see subsections subsection (e)(1)(A) and (B)), participants the-participant shall be reassigned to the same or another work assignment. In addition, participants the individual will be assessed for assignment to another TANF activity.

4) Length of Assignment

Participants The-individual must participate in Work Experience for as long as his-or-her the Responsibility and Services Plan reflects the need for this activity.

5) Anti-Displacement

Community Work Experience is subject to the provisions of Section 112.78(g).

f) On the Job Training (OJT)

In OJT, a participant is hired by a private or public employer and while engaged in productive work receives training that provides knowledge or skills essential to full and adequate performance of the

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job.

- 1) Assignment to OJT
 - A) Job ready individuals may be assigned to OJT.
 - B) OJT participants shall be compensated at the same rate and with the same benefits as other employees.
 - C) Wages to participants in OJT shall not be less than the higher of the State or federal minimum wage.
 - D) Wages to participants in OJT are considered earned income.
 - E) OJT may be combined with other component activities if it is determined appropriate.
- 2) Participation Requirements
 - A) The individual must participate the assigned number of hours each week.
- 3) Supportive Services
 - A) Participants in OJT receive child care and Medicaid benefits through the TANF program.
- g) Work Supplementation Program
 - 1) The Work Supplementation Program develops employment opportunities for TANF recipients by paying wage subsidies to employers who hire program participants. The program is funded by diverting the cash grant an individual would receive if not employed and using the diverted grant to pay a wage subsidy to the employer who hires the recipient. The goal of the Work Supplementation Program is to obtain jobs for TANF recipients, who might not be hired without a subsidy, with sufficient pay to take them off TANF.

- 2) Eligible Participants
 - A) TANF participants who meet the selection criteria listed in subsection (g)(2)(B) of this Section are eligible to participate in the Work Supplementation Program. Participation in the program is voluntary. A TANF recipient who wants to participate in the Work Supplementation Program must agree to all provisions in this Section during the time of participation in the program.
 - B) In order to place special emphasis on people who would not be likely to obtain a job without work supplementation, TANF recipients must meet the following criteria for selection to participate in the Work Supplementation Program:
 - i) the recipient must be the parent of at least one of the children in the TANF unit;
 - ii) the recipient must have completed the Job Search work activity; and
 - iii) the recipient must have no income other than TANF benefits.
 - C) Recipients identified for employment must be determined eligible for participation by their worker. The worker will recommend for participation in the Work Supplementation Program those participants who are likely to encounter

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difficulty in obtaining employment (for example, lack of skills for which jobs are available in the area, lack of work history).

- D) Nothing in this Section should be construed as providing any recipient the right to participate in the program.

3) Benefits and Reporting Requirements While Participating in the Work Supplementation Program

- A) Participants in the Work Supplementation Program are considered to be TANF recipients and remain eligible for Medical Assistance for the duration of their Work Supplementation Program participation. Child care, for cases that are eligible for a cash grant, will be regarded as employment child care.

- B) The participant must agree to accept wages from employment, which will be at least an amount which would be earned by working full time (30 hours minimum) at the prevailing minimum wage, less applicable payroll taxes.

- C) Participants are required to file quarterly reports as a requirement for continuing eligibility. Changes in income from sources other than the Work Supplementation Program job and/or circumstances must still be reported within five days after occurrence pursuant to 89 Ill. Adm. Code 102.50.

- D) Wages paid under a Work Supplementation Program shall be considered to be earned income for purposes of any provision of law (42 USC 8546 1614(e)(3)).

4) Duration of Program Participation

- A) Participants may not exceed a total of six months in the Work Supplementation Program subsidized placements regardless of the number of times an individual becomes a TANF recipient. The period of a single assignment is dependent upon the terms of the Work Supplementation Program contract that has been developed with the employer. Recipients will be informed of the length of the Work Supplementation Program subsidy period prior to placement.

- B) Participants who leave a supported work position without good cause (as defined in Section 112.80) are removed from the Work Supplementation Program and are subject to sanction.

5) Contracts with Employers

- A) Employers that participate in the Work Supplementation Program must enter into a written contract with the Department prior to receiving referrals.
- B) Employers must be in good standing (that is, in compliance with all applicable federal, State, county and local laws, regulations and ordinances) with the Illinois Department of Revenue, the Secretary of State and any and all regulatory agencies which have jurisdiction over their activities.
- C) Employers agree to screen clients to hire on their own

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payroll after six months. Failure to do so will result in the employer being terminated from the program.

6) Calculation of the Diverted Grants

A) The level of grant to be diverted is determined on a prospective basis when a work assignment under the Work Supplementation Program is made. The effective date of the diverted grant is the first day of the first full month of Work Supplementation Program wages.

B) Work Supplementation Program participants are eligible only for the earned income budgeting disregards provided in Sections 112.141 and 112.143. The difference between the flat grant amount and revised amount is diverted to the wage pool.

C) The difference between the payment level and the grant the participant receives is diverted and used in whole or in part to pay a wage subsidy to the employer.

7) Program Completion

If the participant is no longer eligible for TANF benefits after the Work Supplementation Program period, a determination of continued medical eligibility shall be made in accordance with Section 112.330.

8) Anti-Displacement

The Work Supplementation Program is subject to the provisions of Section 112.78(g).

h) Post-Secondary Education

Clients who are not working will not be approved for degree programs unless they can complete the program in one year or less. Clients who are working at least 20 hours per week and whose combined work plus credit hours or class hours, as appropriate, equal at least 25 hours per week may be approved for post-secondary education programs beyond the one-year limitation. 7-including-degree-programs-to-upgrade-their-skills-to-the-extent-resources-allow: Post-secondary education must be administered by an educational institution accredited under requirements of State law including, but not limited to, the Barber, Cosmetology and Esthetics Act of 1985 [225 ILCS 410], the Real Estate License Act of 1983 [225 ILCS 455], the Public Community College Act [110 ILCS 805], the University of Illinois Act [110 ILCS 305], the Chicago State Universities Law [110 ILCS 660], the Eastern Illinois University Law [110 ILCS 665], the Governors State University Law [110 ILCS 670], the Illinois State University Law [110 ILCS 675], the Northeastern Illinois University Law [110 ILCS 680], the Northern Illinois University Law [110 ILCS 685], the Western Illinois University Law [110 ILCS 690] and the Southern Illinois University Name Change Act [110 ILCS 505].

1) Approval Criteria For Post-Secondary Education

- A) The individual must have a high school diploma or a GED.
- B) The individual must possess the aptitude, ability and interest necessary for success in the selected program as

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determined by such factors as test results and educational/training background.

C) The individual must be enrolled full-time as defined by the institution or part-time if a full-time program is not available or appropriate to upgrade skills for current employment.

D) The individual must be in a program needed for the individual to obtain employment in a recognized occupation or upgrade skills for current employment.

E) The individual does not already possess a baccalaureate degree or an associate degree if the Responsibility and Services Plan goal is an associate degree.

F) If the participant possesses a baccalaureate degree, no additional education may be approved.

G) The individual's program must be accredited under requirements of State law.

H) If needed, the individual must apply for all available educational benefits such as the Pell Grant and scholarships from the Illinois Student Assistance Commission as well as any scholarship or grants identified by the education or training facility for which the participant may be eligible.

I) Jobs, consistent with the individual's Responsibility and Services Plan, must be available in the chosen field in a specific geographical area where the individual intends to work upon program completion.

J) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

K) The program selected may be no more than a program that will result in the receipt of a baccalaureate degree consistent with the Responsibility and Services Plan.

L) The individual, unless enrolled in a program that will be completed in one year or less full-time--short-term vocational-training-program-of-less-than-two-years, must also be employed in unsubsidized work for at least 20 hours each week or be participating for at least 20 hours per week in one or more of the following paid or unpaid work activities:

- i) work study;
- ii) practicums, clinicals, or vocational internships such as student teaching, if required by the institution to complete the educational program;
- iii) apprenticeships;
- iv) self-employment; or
- v) enrollment as a full-time Americorps VISTA volunteer

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or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (41 USC 4951 et seq.). In addition, the combined work or work activities plus credit hours or class hours, as appropriate, must equal at least 25 hours per week.

M) Individuals who have been continuously enrolled in an approved post-secondary education program prior to July 1, 1997 must comply with the 20 hour per week work requirement by the end of the fall 1997 semester, or the activity will not be approved for the spring 1998 semester.

N) Individuals who lose employment, unless due to a temporary scheduled employer shutdown, can continue in post-secondary education and receive supportive services, if eligible, during the current semester while they seek employment. If the individual has not reentered employment of at least the State TANF Work Requirement level 20-hours-per-week by the end of the current semester, the individual will not continue in post-secondary education and receive supportive services, but will be reassigned to another appropriate activity.

2) Participation Requirements

A) The individual must maintain participation of at least 75% unless there is good cause for missing more.

AB) The individual must maintain a "C" average if this measurement is used by the institution to determine satisfactory progress. The individual would be allowed one semester below a "C" average to bring the grades up to a "C" average. When grades are not used, satisfactory progress will be determined by the written policy of the institution to establish a comparable grade level upon completion of the academic term.

BE) The client must complete all scheduled program enrollment hours each academic term to maintain satisfactory progress, except in the following situation. If the client withdraws from one or more scheduled courses during an academic term, the client must complete all scheduled enrollment hours during the following academic term. The client may withdraw from one or more scheduled classes in more than one academic term but must complete all scheduled enrollment hours the following academic term to maintain satisfactory progress.

CB) Curriculum changes must be made with the approval of the TANF worker and will be approved when the change is consistent with the Responsibility and Services Plan.

i) Job Development and Placement (JDP)

1) TANF staff shall develop through contacts with public and private employers unsubsidized job openings for participants. Job interviews will be secured for clients by the marketing of participants for specific job openings.

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2) Assignment to JDP
Job ready individuals may be assigned to JDP.

j) Job Retention

Job Retention is designed to assist participants in retaining employment. Job Retention expenses are provided. The individual's supportive service needs are assessed and the individual receives counseling regarding Job Retention skills. Counseling or job coaching may continue after employment begins as long as the individual continues to receive TANF.

k) Unemployed-Parents-Work-Experience

1) Parents in a two-parent TANF case may be required to participate in Unemployed-Parents-Work-Experience unless they are exempt under one of the exemption criteria (see Section 112.71).

2) Unemployed-Parents-Work-Experience participants who are placed on a supervised work assignment improve their employment skills through actual work experience at private employers, not-for-profit organizations, and governmental agencies. Participants are referred to work assignments as vacancies are available. Private employers, not-for-profit organizations, and governmental agencies shall not use unemployed Parents-Work-Experience participants to displace regular employees (see subsection (k)(7) of this Section).

3) At least one parent in a two-parent TANF case is required to participate in a Work-Experience assignment for at least 30 hours per week unless exempt or one parent is employed. The participant in a two-parent TANF case must participate in Work-Experience for as long as he or she remains eligible for cash assistance or until determined exempt from TANF. At the end of every six-month Work-Experience participants will be reassessed to determine the appropriateness of the work assignment. If the participant is gaining work skills and if there is opportunity for employment.

4) Assignment to Work-Experience

A) The unemployed Parents-Work-Experience participant who possesses a high school diploma or equivalent will be assigned to a work assignment. The participant who does not possess a high school diploma or equivalent and who is:

1) age 20 and over must participate an average of at least 30 hours each week in the Unemployed-Parents-Work-Experience work assignment. In addition, the client may participate in educational activities below the post-secondary level or

2) under age 20 must participate an average of 20 hours each week in educational activities below the post-secondary level or be assigned to Work-Experience for 20 hours weekly as appropriate. If assigned to education, the individual must then attend the program for the scheduled hours the program is offered. The

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individual must meet the participation requirements of the Education (below post-secondary) component (see Section 112.78(a)). If the individual fails to make satisfactory academic progress, the individual will be assigned to the Unemployed Parents Work Experience work assignment.

B) Entry into Unemployed Parents Work Experience Parents in a two-parent TANF case may be required to participate in Unemployed Parents Work Experience unless they are exempt under one of the exemption criteria (see Section 112.71).

C) Unemployed Parents Work Experience Positions A participant shall be assigned to an Unemployed Parents Work Experience position based on work history, prior training, experience, skills and vocational preference. The date the participant is scheduled to begin the work assignment marks the beginning of participation in Unemployed Parents Work Experience.

B) Unemployed Parents Work Experience activities may be combined with other component activities if it is determined appropriate.

B) Enrollment as a full-time Americorps-VISTA volunteer or job Corps participant under title I of the 1973 Domestic Volunteer Services Act (42 USC 4951 et seq.) is an allowable work activity. Paid work study and some paid JYPA programs are also allowable.

5) Participation Requirements

A) Participants in two-parent TANF cases must make a good faith effort to complete up to one employer contact per week equivalent to five hours of job search activity in each 30-day period.

B) Failure to make the required number of employer contacts each 30-day period without good cause may result in sanction. A client will not be sanctioned if he or she makes a good faith effort to complete and provide verification of the required number of employer contacts (see Section 112.78(d)(3)(B)).

C) Participant are also required to report as scheduled and on time to the work assignment sponsor when notified of an assignment. When they cannot report to their work assignment or if they will be later, they are to immediately notify their work assignment sponsor. The individual must participate the number of assigned hours each week. Participation may include the work assignment attendance in Education (below post-secondary) and/or completion of employer contact activities. At least one parent in a two-parent TANF case is required to participate in a work experience assignment for at least 30 hours per week unless

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exempt or one parent is employed. The participant in a two-parent TANF case must participate in Work Experience for as long as he or she remains eligible for cash assistance or is determined exempt from TANF.

6) Reassessment

At the end of every six-month Work Experience participants will be reassessed to determine the appropriateness of the work assignment. If the participant is gaining work skills and if there is opportunity for employment.

7) Anti-Displacement

The Unemployed Parents Work Experience is subject to the provisions of Section 112.78(f).

k) Self-Employment

Self-employment activities will increase the individual's ability to start and maintain a business. Self-employment activities will include self-employment development training programs and technical assistance programs, and a two-year exemption of business assets and income for participants. In order to be approved in the self-employment component, the self-employment development plan must be approved.

1) Assignment to Self-Employment

Applicants must have a GED or high school diploma, some work experience and/or proven ability or have a plan that indicates success can be obtained without these requirements.

2) Participation Requirements

Participants must participate in the assigned number of hours.

3) Self-Employment Asset and Income Exemptions

In order to qualify for a two-year self-employment exemption of the business assets and income the individuals must:

A) complete a self-employment program or demonstrate equivalent knowledge and experience; and

B) submit a business plan which includes the following items:

i) verification that the business can be started for under \$5,000;

ii) verification that the loan, if needed, has been secured or that an application for a loan is pending;

iii) a marketing plan which includes a complete product or service description, the market area, the target customers and promotional strategy, an analysis of the competition, distribution, pricing and selling methods; and

iv) a financial plan which includes the amount of loan, the business will need and the repayment plan, the projected monthly cash flow over a two-year period, the estimated cost of production and/or distribution and the estimated operating expenses.

1m) Unstructured Community Service Work Experience

Unstructured Community Service Work Experience provides TANF

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participants with activities that emphasize and build on the individual's job seeking confidence by positively reinforcing the achievement of each small step gained in his or her successful advances toward employment. Activities may include volunteer work as well as job search contacts. Activities are closely monitored for compliance and for tracking the length of time that participants are assigned to Unstructured Community Service Work-Experience. At the reassessment the participant is assigned to the more structured work experience activity or Work First when the participant becomes more job ready. Participants are required to complete the work-activities booklet-weekly--to document their Job Search and Community Service activities. Activities must be at the State TANF Work Requirement level for 20-hours-per-week or as assigned by their Responsibility and Services Plan.

n) Get-A-Job-Initiative

- i) The--Department--will--operate--Get-A-Job--as--a--statewide demonstration--for--five--years--beginning--November--17--1995--Some areas--will--be--designated--as--research--sites--where--cases--will--be randomly--assigned--to--an--experimental--or--control--group--Clients in--these--areas--not--in--the--experimental--group--will--not--participate in--Get-A-Job.

2) Selection-of-Participants

- At-the-time-TANF-cash-assistance-is-approved--adults-who-are--not exempt--from-participation-in-the-TANF-Employment-and-Work-Program and--who--meet--the--following-criteria--will--be--assigned--to--Get-A-Job--Nonexempt-adults--will--be--selected--if:
 - A) they-are-unemployed-or-employed-and-budgeted-gross-earnings are-less-than-\$255-per-month?
 - B) their-youngest-child-is-age-five-through-12-and
 - C) the-adult:
 - i) has-a-high-school-diploma-or-GED?
 - ii) has-been-employed-within-the-last-three-months--or
 - iii) is-receiving-Unemployment-insurance-(UI)-Benefits-or has-received-UI-within-the-last-three-months?

3) TANF-Orientation-and-Family-Assessment

- A) At-application--potential-Get-A-Job--participants--will--be identified--during--the--intake--process--The--eligibility worker--will--inform--the--client--about--the-TANF-Employment-and-Work-program--and--explain--Get-A-Job--participation requirements--and--available-supportive-services--The-worker will--provide--the--client--with--information--and--forms--needed--to begin-participation-in-Get-A-Job.
- B) The--determination--that--the--client--meets--the--selection criteria--for--Get-A-Job--and--the--evaluation--of--the--need--for and--arrangement--of--supportive--services--constitutes--the initial-TANF-family-assessment--for--Get-A-Job-participants.
- C) Participants--will--not--be--approved--for--education--or--training programs--while--in--Get-A-Job.

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4) Participation-Requirements

- A) Unless-they-have-good-cause--participants-must:
 - i) attend-scheduled-monthly-job-search-meetings?
 - ii) keep-appointments-with-Get-A-Job-staff,
 - iii) make-a-good-faith-effort--to--complete--20--employer contacts--each-month?
 - iv) accept-a-bona-fide-offer-of-suitable-employment--and maintain--employment--and--not--voluntarily--reduce earnings?
- B) Participants--will--remain-in-Get-A-Job--for--six--months--or until--they--have--budgeted--earnings--of--at-least-\$255-per month--whichever-comes-first--Nonexempt-participants--will then--be--reassigned--to--other-TANF-activities-as-slots-are available?
- C) Participants--will--be--placed--in--Get-A-Job--each-time--they--are approved--for--cash--assistance--and--meet--the--selection criteria?

5) Supportive-Services

- Supportive-services--will--be--provided--to--assist--participants--in their-job-search:
 - A) Each-participant--will--receive-a-monthly-job-search-allowance of--\$20--to--cover--the--cost--of--employer-contacts--including transportation--stamps--resumes--etc--No-additional-payment for-these-costs--will--be--allowed.
 - B) Payment--for--child-care--and--initial--employment--expenses--will be--provided--as-needed--within--the--limits--stated--in--Section 112.02.

6) Sanctions

- A) Reconciliation--will--be--attempted--with--participants--who--fail to-meet-participation-requirements--(see-Section-112.02)?
 - B) When-reconciliation-is-unsuccessfully--the-TANF-sanctions--will apply--(see-Section-112.02)?
- m) Targeted Work Initiative (TWI)
- i) Demonstration-Status
 - The-Department--will--operate--the-Targeted-Work-Initiative-(TWI)--as a-statewide-demonstration--for--five--years--beginning--December-1995--Some--areas--will--be--designated--as--the--research--sites--where--cases will--be--randomly--assigned--to--an--experimental--or--control--group--Clients--in--these--areas--who--are--not--in--the--experimental--group--will not-participate--in--TWI.
 - 12) Selection of Participants
 - TANF cash recipients whose youngest child is age 13 or older shall be required to participate in TWI and must seek and accept employment as part of the TANF activity requirement, unless the recipient has--earned--income--or is excused for one of the following reasons (other TANF exemption reasons listed in Section 112.01 do not apply to the TWI population):
 - A) The recipient is temporarily ill or chronically ill.

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- i) An individual is temporarily ill when determined by the local office, on the basis of medical evidence (for example, a statement from a medical provider) or on another sound basis, that the illness or injury is serious enough to temporarily prevent the individual from engaging in employment or participating in a work activity. A sound basis for exemption on a temporary basis includes but is not limited to: the observation of a cast on a broken leg or the client provides information of a scheduled surgery or recuperation from surgery. Minor ailments and injuries, such as colds, broken fingers or rashes are not serious enough normally to exempt the individual under this criterion.
- ii) An individual is chronically ill or incapacitated, as determined by the local office, when a physician or licensed or certified psychologist finds that a physical or mental impairment, either by itself or in conjunction with age or other factors, prevents the individual from engaging in employment or participating in a work activity. This includes a 12 week period of recuperation after childbirth.
- iii) When an individual is determined either temporarily or chronically ill or incapacitated, the exclusion shall continue until further action is taken by the Department. When the exemption is initially granted, the Department will establish a date as to when the condition warranting the exemption is expected to end or, upon case review, the exemption will be reevaluated to determine whether the exempted individual continues to be exempt under the same procedures as for the initial determination of exemption with appropriate notice to the individual that the reevaluation is necessary.
- B) The recipient provides full-time care for another household member due to that person's medical condition or incapacity.
- 23) Work or Work First at 24 Months Time-Barred-on-Receipt-of-Cash Assistance
- A) When the participant has been in TWI for 24 months, the participant must be working or in Work First to qualify the family for TANF, unless the participant is excused for one of the reasons in Section 112.78(m)(1). A participant who has been in TWI for 24 months who fails to cooperate with Work First shall make the family ineligible for TANF rather than be subject to sanction ~~for~~2).
- B) Beginning with the first month in TWI, the addition to the household of a child under age 13 or the birth of a child more than 10 months later shall not extend the 24-month

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- period.
- e) ~~After--reaching the 24-month limit, the participant shall be ineligible for cash assistance for a period of 24 months, unless the participant is employed or in Work First. When the participant is off-cash assistance for 24 consecutive months, for any reason, the participant will again be eligible for TANF if all other eligibility factors are met.~~
- 34) Participation Requirements
- During the 24-month eligibility period, participants must cooperate with the requirements of the TANF Program as described in Section 112.72. Participants who fail to cooperate shall be subject to sanction.
- 45) Sanctions
- A) Reconciliation (see Section 112.77) will be attempted with participants who fail to meet participation requirements without good cause (see Section 112.80).
- B) When reconciliation is unsuccessful, the TANF sanctions will apply (see Section 112.79).
- 56) Activity Assignments for TWI Participants
- A) Initial Activity Assignment
- 4) Participants will be placed in an appropriate activity with a high school diploma, GED, or recent work history with initially be required to complete eight weeks of independent job search followed by assisted job search.
- ii) Participants who have neither a high school education nor recent work history will initially be given a choice of independent job search, job search plus job training or GED.
- B) Assignment After 12 Months Work First/Pay After--Performance for TWI Participants
- i) Participants who have completed their appropriate activity and have not become employed after 12 months will be assigned to the Work First/Pay After Performance program.
- ii) Participants in Work First must work at least 80 59 hours per month (20 hours per week for single-parent cases) or 120 hours per month (30 hours per week for two-parent cases) in an assigned Pay After Performance position to earn their TANF grant and food stamps. If the value of the participant's TANF grant plus food stamps divided by 80 or 120, respectively, does not equal the federal minimum wage, then the hours will be reduced accordingly. If the participant does not work 80 hours per month for single-parent cases or 120 hours per month for two-parent cases, the reduction per hour not worked will be the amount of the grant divided by 80 hours or 120 hours respectively. The maximum number of hours worked cannot exceed the

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amount of TANF and food stamp allotment divided by the minimum wage. ~~Their TANF grant will be reduced by this amount--assigned hours--x--minimum wage;---they will be paid the Federal minimum wage, by the employer or Community-Based Provider, for only the number of hours they actually participate.~~

iii) Participants in Work First must also complete 20 employer contacts each month equivalent to 35 hours of job--search--activities--per--month--or--35--hours--of--job--club--activities--per--month.

iv) Participants will be assigned to Work First/Pay After Performance until they find unsubsidized employment. A review assessment will be conducted every six months to determine appropriateness of assignment, if work skills are being gained and if the opportunity for placement exists.

v) The Department will develop Work First/Pay After Performance positions with private employers or not-for-profit or public agencies and will provide Worker's Compensation coverage for participants.

vi) Work First/Pay After Performance for TWI participants is subject to the provisions of Section 112.78(g).

vii) Individuals who fail to participate, without good cause, are determined to have not availed themselves of the Work First opportunity. If good cause is not determined, the entire case is ineligible for TANF assistance. Upon reapplication for TANF, the individual may be reassigned to a Work First position.

6) Failure to participate is determined to have occurred:

- A) if the participant does not report to the provider or employer. Participants are deemed to have failed to report if they have not contacted the provider or employer in person, by telephone or mail, or by a third party; or
- B) if the participant has engaged in misconduct connected with the Work First assignment. The term "misconduct" means deliberate and willful violation of a reasonable rule or policy of the employer governing the individual's behavior in performance of work, provided such violation has harmed the employer or other employees or has been repeated by the individual despite a warning or the explicit instruction from the employer.

np) Work First/Pay After Performance for Non-TWI Participants

- 1) Participants who are not in TWI and quit employment without good cause or lose employment for reasons entirely out of their control (for example, plant closings or layoffs) will be required to participate in Work First/Pay After Performance for six months or until they obtain employment to the extent slots exist. To the extent that resources allow, job ready clients will also be

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targeted for Work First/Pay After Performance slots. Individuals in a TANF case, assigned to Work First, must participate in Work First and other activities combined for an average of at least 20 hours each week to earn their TANF grant and food stamps plus 5 employer contacts per week. ~~in FY 1997 and FY 1998, at least 25 hours each week in FY 1999, and at least 30 hours each week in FY 2000 and after.~~ If the participant does not work 80 hours per month, the reduction per hour not worked will be the amount of the grant divided by 80 hours.

3) Nonexempt Non-TWI nonexempt individuals in a two-parent TANF case must participate an average of at least 30 35 hours each week in Work First and 5 employer contacts per week. If the individuals do not work 120 hours per month, the reduction per hour not worked will be the amount of the grant divided by 120 hours.

4) Participants in Work First participate the number of hours per month equal to the relevant amount of benefits divided by minimum wage. ~~Other countable activities will be combined with Work First to meet minimum hourly participation requirements.~~ If the value of the participant's TANF grant plus food stamps divided by 80 or 120, respectively, does not equal the federal minimum wage, then the hours will be reduced accordingly.

5) Participants will be assigned to Work First/Pay After Performance until they find unsubsidized employment. An assessment will be conducted every six months to determine appropriateness of assignment, if work skills are being gained and if the opportunity for placement exists.

6) The Department will develop Work First/Pay After Performance positions with private employers or not-for-profit or public agencies. The Department shall provide Worker's Compensation coverage for participants. The Department will ensure all applicable employer safety laws are met for Work First/Pay After Performance assignments. Failure of an employer to do so will result in termination of the contract.

7) Work First/Pay After Performance for non-TWI participants is subject to the provisions of subsection (g) of this Section ~~Section 112.78(f).~~

8) Individuals who fail to participate, without good cause, are determined to have not availed themselves of the Work First opportunity. If good cause is not determined, the entire case is ineligible for TANF assistance. Upon reapplication for TANF, the individual may be reassigned to a Work First position.

Failure to participate is determined to have occurred:

- A) if the participant does not report to the provider or employer. Participants are deemed to have failed to report if they have not contacted the provider or employer in person, by telephone or mail, or by a third party; or
- B) if the participant has engaged in misconduct connected with the Work First assignment. The term "misconduct" means

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deliberate and willful violation of a reasonable rule or policy of the employer governing the individual's behavior in performance of work, provided such violation has harmed the employer or other employees or has been repeated by the individual despite a warning or the explicit instruction from the employer.

99) Substance Abuse

- 1) Selection of Participants
 - If alcohol or substance abuse is suspected as a barrier to employment during the family assessment process or at an intake interview, the client will be referred for a clinical assessment by an alcohol/substance abuse counselor. If treatment is indicated, the client will be required to follow-up as a condition of eligibility, unless the client is employed more than 30 hours per week or if treatment resources are not available.
- 2) Work Activity
 - Clients participating in alcohol/substance abuse treatment in accordance with their Responsibility and Services Plan are participating in a work activity.
- 3) Supportive Services
 - Supportive services, i.e., child care and transportation, will be provided to enable clients' participation in treatment, to the extent resources are available.
- 4) Sanctions
 - A) Reconciliation ~~conciliation~~ will be attempted with clients who fail to cooperate with their treatment plan. Cooperation with the treatment plan will be defined by the alcohol/substance abuse provider, based on uniform guidelines.
 - B) When reconciliation ~~conciliation~~ is unsuccessful, the TANF sanctions will apply.

9) Domestic Violence

- 1) Selection of Participants
 - All clients receiving TANF will have a family assessment completed. If domestic violence is a barrier to employment, the client will be referred to a domestic violence service provider.
- 2) Work Activity
 - Clients participating in domestic violence abuse treatment are in accordance with their Responsibility and Services Plan and are participating in a work activity.
- 3) Supportive Services
 - Supportive Services, i.e., child care and transportation, will be provided to enable clients' participation in treatment, to the extent resources are available.
- 4) Sanctions
 - If the individual does not comply with the Responsibility and Services Plan relating to domestic violence, a sanction will not be imposed. The Responsibility and Services Plan will be

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reviewed, and other work related activities will be developed. Compliance will be required for the new activities.

9) Anti-Displacement and Grievance Procedure

- 1) An employer may not utilize a work activity participant if such utilization would result in:
 - A) the displacement or partial displacement of current employees, including but not limited to a reduction in hours of non-overtime or overtime work, wages, or employment benefits; or
 - B) the filling of a position that would otherwise be a promotional opportunity for current employees; or
 - C) the filling of a position created by or causing termination, layoff, a hiring freeze, or a reduction in the workforce; or
 - D) the placement of a participant in any established unfilled vacancy; or
 - E) the performance of work by a participant if there is a strike, lockout, or other labor dispute in which the employer is engaged.
- 2) An employer who wishes to utilize work activity participants shall notify the appropriate labor organization in accordance with the applicable State statute [305 ILCS 5/9A-13].
- 3) Participants, other employees at the work site or their representative, may file a grievance with the Department if they believe the participant's work assignments are causing displacement. In order for the Department to consider a grievance, it must be in writing and contain the following information:
 - A) the name and address of the participant or other employee at the work site (the grievant);
 - B) the participant's case number (if grievant is participant);
 - C) the grievant's Social Security number;
 - D) Work Experience (work site); and
 - E) a statement as to why the grievant believes the participant is causing displacement.
- 4) Within ten days after receipt of a written grievance, the Department shall arrange an in-person conference with:
 - A) the grievant;
 - B) the grievant's representative, if any;
 - C) the Work Experience Sponsor;
 - D) the Work Experience Sponsor's representative, if any; and
 - E) the Department's representative.
- 5) At the in-person conference, the Department shall solicit and receive from the grievant and the Work Experience Sponsor any documents and statements relevant to the matters alleged in the grievance. The Work Experience Sponsor shall provide whatever documents or other information is requested by the grievant and/or the Department.
- 6) Within 15 days after the in-person conference, the Department

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shall advise the participant or other employee at the work site and the Work Experience Sponsor in writing of the information obtained in the investigation and of the findings and conclusions as to the matters alleged in the grievance.

- 7) If the Department concludes that displacement occurred (as described in subsection (a)(1) of this Section), the Department shall terminate the participant's assignment to that Work Experience Sponsor. If the Department concludes, as a result of the evidence presented at the conference, that the Work Experience Sponsor has caused displacement by use of TANF participants in addition to the participants involved in the grievance, the Department shall terminate those TANF participants' assignment to that work assignment Sponsor.

- 8) The Department, its employees or the Work Experience Sponsor shall not retaliate for filing a grievance or otherwise proceeding under this policy. Retaliation will result in the termination of the Work Sponsor contract.

(Source: Amended at 23 Ill. Reg. 42-73, effective JAN 6 1991)

Section 112.79 Sanctions

- a) Sanctions may be imposed against those participants who fail to participate without good cause. Sanctions shall be based on instances of non-cooperation which occur on or after July 1, 1997. The sanction penalty shall be as follows:

- 1) For the first instance of non-cooperation, the cash assistance payment is reduced by 50 percent of the family's payment level until the cooperation requirement is met. If the cooperation requirement is not met after three months of reduced payments, the entire cash payment is stopped.
- 2) For the second instance of non-cooperation, the cash assistance payment is reduced by 50 percent of the family's payment level for three months. If the cooperation requirement is not met after three months of reduced payments, the entire cash payment is stopped.
- 3) For the third instance and any subsequent instance of non-cooperation, the family's entire cash assistance payment is stopped for at least three months. Cash assistance will be reinstated for the fourth month if the cooperation requirement is met during the three-month sanction period.
- 4) Sanction penalties accumulate by family, not by person, during any single period of continuous assistance. A loss of all cash assistance due to sanction shall not be considered a break in assistance. If a family member's non-cooperation occurs during a sanction period which was the result of another member's non-cooperation, the next progressive sanction shall apply.

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- b) Sanction Reasons

Sanctioning of a participant will result from one instance of any of the following without good cause unless reconciliation is successful:

- 1) failure to respond to a job referral;
- 2) failure to accept a bona fide offer of suitable employment (see Section 112.72(a)(3) and (4));
- 3) discontinuing part-time employment (less than 20 hours per week);
- 4) reducing employment (that is, hours of employment) to less than 20 hours per week;
- 5) failure to respond to a call-in notice for an orientation appointment (see Section 112.76); this reason only applies to nonexempt clients who are mandated to participate;
- 6) failure to report to an assessment interview and comply with the assessment process (see Section 112.74); this reason only applies to nonexempt clients who are mandated to participate;
- 57) failure to participate in the activity;
- 58) failure to respond to a written notice for a meeting. For the purpose of determining attendance at meetings, if participant arrives anytime within 30 minutes after the start of the scheduled meeting, the participant will be considered present and will be seen. If the participant has good cause (see Section 112.80) for being more than 30 minutes late the tardiness will be excused. The worker will include the participant in a scheduled group or other meeting or re-schedule the participant for another meeting;
- 79) failure to make good faith effort to complete and provide verification of the required number of acceptable employer contacts every 30 days when employer contact activity is required;
- 810) failure to accept transportation, family counseling or other social service or employment and training services such as testing or employment counseling, thereby precluding or interrupting participation in work or training activities; or
- 111) failure to maintain satisfactory participation of at least 75% in below post-secondary and post-secondary education activities; or
- 912) failure to provide verification of education/training activities, employability status, etc.

- c) No sanction will be imposed until staff has sent the participant a written notice scheduling a good cause determination/ reconciliation meeting to determine whether the participant had good cause for his or her failure to comply with requirements and the participant has either failed to attend the meeting or failed to show good cause. If the participant failed to show good cause, the reconciliation process will continue (see Section 112.77) to enable resolving disputes related to participation. The written notice shall explain the purpose of the appointment and the consequences for failure to attend or failure to show good cause. Failure of the participant to appear for the scheduled meeting is not considered an instance of noncooperation.

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d) A sanction against participants may be rescinded at any level of the sanction process up through and until the final agency decision, including any appeal hearing, if the participant establishes good cause (see Section 112.80 for good cause criteria).

e) The notice of change form issued for a sanction shall include the following:

1) a description of the acts of noncooperation, including dates where applicable; and
 2) a statement that the participant's acts were without good cause (see Section 112.80 for good cause criteria).

3) the following language will be required for participants:--you will be sanctioned until the first day of the sanction period;--in order for cash assistance to be restored at the end of the sanction period with no further gap in assistance--you must file an application (or written request) for cash assistance between (x date) and (y date);--if you apply later than (y date), there may be a further gap in assistance.

f) At least 14 days prior to the end of the sanction period, a notice will be sent to sanctioned individuals whose failure to cooperate has continued for three months explaining the individual's option to end the sanction.

g) A sanction under this Section shall not affect receipt of Medical Assistance. Likewise, a sanction for child support enforcement or the school attendance initiative does not affect any instances of non-cooperation under this Section.

h) Individuals who are sanctioned will be contacted at least one time per month to attempt to re-engage the client back into the program. Supportive services (see Section 112.82) will be paid while in sanction status if the individual is participating. If the family is also sanctioned for failure to cooperate with child support enforcement or school attendance initiative requirements, the sanctions are served simultaneously.

h1) A person must cooperate to end the sanction. When the person cooperates, benefits are restored as of the date of cooperation or, for second or third instances of sanction, at the end of the three month period, whichever is later.

(Source: Amended at 23 Ill. Reg. 0423, effective

JAN 6 1990)

Section 112.80 Good Cause for Failure to Comply with TANF Participation Requirements

a) If a participant has good cause for not complying with a TANF participation requirement, financial assistance shall not be discontinued. Examples of good cause include but are not limited to:

- 1) temporary illness for its duration;
- 2) court required appearance or temporary incarceration;

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3) death in the family;
 4) extreme inclement weather;

5) lack of any supportive service (see Section 112.82), even though the necessary service is not specifically provided under TANF, to the extent the lack of the needed service presents a significant barrier to TANF participation;

6) if an individual is engaged in employment and/or training that is consistent with the employment related goals of the program, if such employment and training is later approved by TANF staff (e.g., a participant is unable to attend an orientation session because she is already attending GED classes);

7) failure of Department staff or Contractor to correctly forward the information to TANF staff;

8) failure of the participant to cooperate because of attendance at a test or a mandatory class or function at an educational program (including college), when an education/training program is officially approved by TANF. When TANF workers know in advance of such tests and mandatory classes or functions, they shall schedule TANF activities around them if possible;

9) failure of the participant due to his or her illiteracy;

10) failure of the participant because it is determined that he or she should be in a different TANF activity;

11) non-receipt by the participant of a notice advising him or her of a participation requirement, if documented by the participant. Documentation can include, but is not limited to: a written statement from the post office or other informed individual; the notice not sent to the participant's last known address in Department records; return of the notice by the post office; other returned mail; proof of previous mail theft problems. When determining whether or not the participant has demonstrated non-receipt, the Department shall take into consideration a participant's history of cooperation or non-cooperation in the past. If the documented non-receipt of mail occurs frequently, the Department shall explore an alternative means of providing notices of participation requests to participants;

12) non-comprehension of written and/or oral English;

13) child care (or day care for an incapacitated individual living in the same home as a child) is necessary for the participation or employment and such care is not available for a child under age 13;

14) failure to participate in a TANF activity due to a verified scheduled job interview;

15) the individual is homeless. Homeless individuals (including the family) have no current residence and no expectation of acquiring one in the next 30 days. This includes individuals residing in overnight and transitional (temporary) shelters. This does not include individuals who are sharing a residence with friends or relatives on a continuing basis;

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- 16) documented circumstances beyond the control of the participant which prevent the participant from completing program requirements; or
- 17) failure to participate in a TANF work activity because of violations of workplace rights due TANF recipients as determined by the U.S. Department of Labor.
- b) The TANF worker may ~~with not~~ require a participant to document good cause for noncooperation with TANF requirements. ~~unless:~~
- 1) ~~the participant has failed to comply with TANF requirements on at least one other occasion within a 30-day period; or~~
- 2) ~~evidence independent of the explanation of good cause casts doubt on the participant's explanation;~~
- c) No participant shall be denied good cause solely on the basis that he or she failed to notify the Department in advance of a participation requirement. Nevertheless, failure to notify is material and is an important factor if the participant could have notified the Department.

(Source: Amended at 23 Ill. Reg.

~~(TAN 61000)~~

0423, effective

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Community Living Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 370
- 3) Section Numbers: Adopted Action:
370.160 Amendments
370.165 New Section
370.715 Amendments
- 4) Statutory Authority: Community Living Facilities Act [210 ILCS 35]
- 5) Effective date of amendments: January 15, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposal was Published in Illinois Register: April 3, 1998 - 22 Ill. Reg. 6074
- 10) Has JCAR issued a Statement of Objections to this/these Rules? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
No comments were received.
The following changes were made in response to comments and suggestions of JCAR:
1. In Section 370.160, "[220 ILCS 41]" was added after "DISCLOSURE ACT".
 2. "and" was added after the semi-colon in Section 370.165(h).
 3. In Section 370.715(a)(6), line 4, the period after "12-1" was stricken and a comma was added.
 4. In Section 370.715(g) "-based" was added after "NON-FINGERPRINT".
- In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as

DEPARTMENT OF PUBLIC HEALTH
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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 370

COMMUNITY LIVING FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
370.110	General Requirements
370.120	Application for License
370.130	Licensee
370.140	Issuance of an Initial License for a New Facility
370.150	Issuance of an Initial License Due to a Change of Ownership
370.160	Issuance of a Renewal License
370.165	Alzheimer's Special Care Disclosure
370.170	Denial or Revocation
370.180	Experimental Program Conflicting With Requirements
370.190	Inspections
370.200	Information to Be Made Available to the Public By the Licensee
370.210	Ownership Disclosure
370.220	Variances
370.230	Alcoholism Treatment Programs In Community Living Facilities
370.240	Definitions

SUBPART B: ADMINISTRATION

Section	
370.400	Administration

SUBPART C: POLICIES

Section	
370.510	Social and Vocational Training Program Policies
370.520	Admission and Discharge Policies
370.530	Agreement Between Resident and Facility
370.540	General Policies
370.550	Personnel Policies

SUBPART D: PERSONNEL

Section	
370.710	Personnel
370.715	Health Care Worker Background Check
370.720	Personnel Policies

SUBPART E: HEALTH MAINTENANCE SERVICES

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indicated in the agreement letter issued by JCAR? All agreed-upon changes have been made.

13) Will these amendments replace emergency amendments currently in effect?
No

14) Are there any other Amendments Pending on this Part? No

15) Summary and purpose of the amendments: Section 370.160 has been amended and Section 370.165 has been added in response to Public Act 90-341, which created the Alzheimer's Special Care Disclosure Act and amended the Community Living Facilities Act. A facility that has an Alzheimer's special care unit or center is required to provide information to the Department at the time of licensure renewal concerning the services offered. The information must also be provided to actual or potential clients. Section 370.715 has been amended to add disqualifying crimes under the Health Care Worker Background Check Act, pursuant to Public Act 90-441. Additional new statutory language states that an employer need not initiate an additional criminal background check for an employee for whom a background check was initiated between January 1, 1996, and January 1, 1998.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187
(rules@idph.state.il.us)

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

Section		
370.810	Medical Care Policies	
370.820	Communicable Disease Policies	
370.830	Behavior Emergencies	
370.840	Medication Policies	
Section		
370.1010	Program Evaluation	
370.1020	Program and Services	
Section		
370.1210	General	
370.1220	Other Records	
370.1230	Confidentiality	
Section		
370.1410	Food Service	
370.1420	Adequacy of Diet	
370.1430	Therapeutic Diets	
370.1440	Scheduling of Meals	
370.1450	Food Preparation and Service	
370.1460	Food Handling Sanitation	
370.1470	Kitchen Equipment, Utensils and Supplies	
Section		
370.1610	Maintenance	
370.1620	Housekeeping	
370.1630	Laundry Services	
Section		
370.1810	Furnishings	
370.1820	Equipment and Supplies	
Section		
370.2010	Codes	
370.2020	Water Supply	

SUBPART F: PROGRAM SERVICES

SUBPART G: RECORDS

SUBPART H: FOOD SERVICE

SUBPART I: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

SUBPART J: FURNISHINGS, EQUIPMENT AND SUPPLIES

SUBPART K: WATER SUPPLY AND SEWAGE DISPOSAL

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370.2030	Sewage Disposal	
370.2040	Plumbing	
Section		
370.2210	Applicability of Standards	
370.2220	Codes and Standards	
370.2230	Preparation of Drawings and Specifications	
370.2240	Site	
370.2250	Administration	
370.2260	Bedrooms	
370.2270	Nurses' Station	
370.2280	Bath and Toilet Rooms	
370.2290	Living, Dining Room, and Activity Room(s)	
370.2300	Kitchen	
370.2310	Laundry Room	
370.2320	Housekeeping and Storage	
370.2330	Building General	
370.2340	Exit Facilities and Subdivision of Floor Areas	
370.2350	Stairways and Vertical Openings	
370.2360	Hazardous Areas	
370.2370	Structural	
370.2380	Mechanical Systems	
370.2390	Plumbing Systems	
370.2400	Electrical Systems	
370.2410	Fire Alarm and Detection System	
370.2420	Emergency Electrical System	
370.2430	Fire Protection	
Section		
370.2610	Applicability of Standards	
370.2620	Codes and Standards	
370.2630	Preparation of Drawings and Specifications	
370.2640	Site	
370.2650	Administration and Public Areas	
370.2660	Bedrooms	
370.2670	Nurses' Station	
370.2680	Bath and Toilet Rooms	
370.2690	Living, Dining Room, and Activity Room(s)	
370.2700	Kitchen	
370.2710	Laundry Room	
370.2720	Housekeeping and Storage	
370.2730	Building General	

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING
COMMUNITY LIVING FACILITIES

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370.2740 Exit Facilities and Subdivision of Floor Areas
 370.2750 Stairways and Vertical Openings
 370.2760 Hazardous Areas
 370.2770 Structural
 370.2780 Mechanical Systems
 370.2790 Plumbing Systems
 370.2800 Electrical Systems
 370.2810 Fire Alarm and Detection System
 370.2820 Emergency Electrical System
 370.2830 Fire Protection

SUBPART N: RESIDENT'S RIGHTS

Section
 370.3010 General
 370.3020 Medical and Personal Care Program
 370.3030 Restraints
 370.3040 Abuse and Neglect
 370.3050 Communication and Visitation
 370.3060 Resident's Funds
 370.3070 Private Right of Action
 370.3080 Transfer and/or Discharge
 370.3090 Complaint Procedures
 370.3100 Confidentiality
 370.3110 Facility Implementation

APPENDIX A

APPENDIX B Sanitizing Solutions

AUTHORITY: Implementing and authorized by the Community Living Facilities Act [210 ILCS 35].

SOURCE: Emergency rules adopted at 6 Ill. Reg. 379, effective January 1, 1982, for a maximum of 150 days; adopted at 6 Ill. Reg. 6226, effective May 19, 1982; codified at 8 Ill. Reg. 19476; amended at 8 Ill. Reg. 24706, effective December 7, 1984; emergency amendment at 17 Ill. Reg. 9117, effective June 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19509, effective November 1, 1993; emergency amendments at 20 Ill. Reg. 456, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 9982, effective July 15, 1996; amended at 22 Ill. Reg. 3919, effective February 13, 1998; JAN 15 1999, amended at 23 Ill. Reg. 993-17, effective

SUBPART A: GENERAL PROVISIONS

Section 370.160 Issuance of a Renewal License

At least one-hundred-twenty-(120) days, but not more than one-hundred-fifty-(

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150+ days, prior to license expiration, the licensee shall submit an application for renewal of the license in such form and containing such information as the Department requires. If the Department determines that the community living facility is in substantial compliance with the Act and this Part, and has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Special Care Disclosure Act [220 ILCS 4], if applicable (see Section 370.165 of this Part), the Department shall renew the regular license for another one-year period. (Section 9 of the Act) If the application is approved, and the facility is in compliance with all other licensure requirements, the license shall be renewed for an additional one-year period.

(Source: Amended at 23 Ill. Reg. 993-17, effective JAN 15 1999)

Section 370.165 Alzheimer's Special Care Disclosure

A facility that offers to provide care for persons with Alzheimer's disease through an Alzheimer's special care unit or center shall disclose to the Department or to a potential or actual client of the facility the following information in writing on request of the Department or client:

- The form of care or treatment that distinguishes the facility as suitable for persons with Alzheimer's disease.
 - The philosophy of the facility concerning the care or treatment of persons with Alzheimer's disease.
 - The facility's pre-admission, admission, and discharge procedures.
 - The facility's assessment, care planning, and implementation guidelines in the care and treatment of persons with Alzheimer's disease.
 - The facility's minimum and maximum staffing ratios, specifying the general licensed health care provider to client ratio and the trainee health care provider to client ratio.
 - The facility's physical environment.
 - Activities available to clients at the facility.
 - The role of family members in the care of clients at the facility; and
 - The costs of care and treatment under the program or at the center.
- (Section 15 of the Alzheimer's Special Care Disclosure Act)

(Source: Added at 23 Ill. Reg. 993-17, effective JAN 15 1999)

SUBPART D: PERSONNEL

Section 370.715 Health Care Worker Background Check

- The facility shall not knowingly hire any individual after January 1, 1996, in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit

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one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));

2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));

3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 384 to 386));

4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, pars. Sections 252, 252.1, and 252.4));

5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2 and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2 and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));

6) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 55, 56, and 56a to 60b));

7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));

8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));

9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13,

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12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 109, 141, 142, 490, and 491));

10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));

11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));

12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));

13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));

14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3); Ill. Rev. Stat. 1961, ch. 38, pars. Sections 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388, 389, 393 to 400, 404a to 404c, 438, 492 to 496));

15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));

16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));

17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));

18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);

19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 84 to 86, 88, and 501));

20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));

21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 48 to 53 and 236 to 238));

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- 22) ~~that~~ Unlawful use of weapons, or aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, and 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, and 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2); Ill. Rev. Stat. 1961, ch. 38, pars. Sections 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g);
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
- 24) Those provided in Section 4 of the Wrongs to Children Act [Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 234, par. 2368));
- 26) ~~that~~ Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705.1, 705.2, 707, and 709)); or
- 27) ~~that~~ Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not knowingly employ or retain any individual after January--17--1997 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ~~that~~ of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (k) and (m) of this Section. (Section 25 of the Health Care Worker Background Check Act)
- c) For the purpose of this Section:
- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
 - 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) ~~that~~ of this Section.
 - 3) "Direct care" means the provision of nursing care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been

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- appointed for that individual.
- 4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)
- d) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (q) of this Section, for a position with duties that involve direct care for residents, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.
- e) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)
- f) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of this Section.
- g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:
- 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
 - 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.
 - 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ~~that~~ of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section.
 - 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ~~that~~ of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section.

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- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶¶ of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)
- h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
- i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶¶ of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- j) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)
- k) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:
 - 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and
 - 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- l) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (k)(1) and (2) above.
- m) The Department may grant a waiver based on mitigating circumstances, which may include:
 - 1) The age at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the

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- conviction;
- 5) The applicant's or employee's work history;
- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)
- n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)
- o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)
- p) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) ¶¶ of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:
 - 1) certified court records;
 - 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
 - 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
 - 4) a signed affidavit from the individual concerning the validity of the report; or
 - 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.
- q) This Section shall not apply to:
 - 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
 - 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
 - 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)
- r) An employer need not initiate an additional criminal background check

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for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

g)† The facility shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

t)† The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

u)† The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 23 Ill. Reg. 1032.13, effective JAN 15 1998)

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- 1) Heading of the Part: Hospital Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 250
- 3) Section Numbers: Adopted Action:
250.310 Amendments
250.435 Amendments
- 4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- 5) Effective date of amendments: January 15, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice(s) of Proposal was Published in Illinois Register: April 3, 1998 - 22 Ill. Reg. 6088

10) Has JCAR issued a Statement of Objections to this/these Rules? No

11) Difference between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

No comments were received.

The following changes were made in response to comments and suggestions of JCAR:

1. In Section 250.435(a)(18), the first closing parenthesis was deleted.
2. In Section 250.435(q)(1), "or" was added after the semi-colon.
3. In Section 250.435(g), "-based" was added after "non- fingerprint".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? All agreed-upon changes have been made.

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- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other Amendments Pending on this Part? No
- 15) Summary and purpose of the amendments:

Section 250.310 has been amended in response to Public Act 90-149, which amended the Hospital Licensing Act to add a definition of "privilege" for the purpose of determining medical staff privileges under Section 10.4 of the Act.

Section 250.435 has been amended to add disqualifying crimes under the Health Care Worker Background Check Act, pursuant to Public Act 90-441. Additional new statutory language states that an employer need not initiate an additional criminal background check for an employee for whom a background check was initiated between January 1, 1996, and January 1, 1998.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail DeVito, Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187
(rules@idph.state.il.us).

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

- TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250
HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section
250.110
250.120
250.130
250.140
250.150
250.160

Application for and Issuance of Permit to Establish a Hospital
Application for and Issuance of a License to Operate a Hospital
Administration by the Department
Hearings
Definitions
Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION AND PLANNING

Section
250.210
250.220
250.230
250.240
250.250
250.260
250.265
250.270
250.280

The Governing Board
Accounting
Planning
Admission and Discharge
Visiting Rules
Patients' Rights
Language Assistance Services
Manuals of Procedure
Agreement with Designated Organ Procurement Agencies

SUBPART C: THE MEDICAL STAFF

Section
250.310
250.315
250.320
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Organization
House Staff Members
Admission and Supervision of Patients
Orders for Medications and Treatments
Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section
250.410
250.420
250.430
250.435
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Organization
Personnel Records
Duty Assignments
Health Care Worker Background Check
Education Programs
Personnel Health Requirements

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250.460	Benefits
Section	
250.510	Laboratory Services
250.520	Blood and Blood Components
250.525	Designated Blood Donor Program
250.530	Proficiency Survey Program (Repealed)
250.540	Laboratory Personnel (Repealed)
250.550	Western Blot Assay Testing Procedures (Repealed)
	SUBPART F: RADIOLOGICAL SERVICES
Section	
250.610	General Diagnostic Procedures and Treatments
250.620	Radioactive Isotopes
250.630	General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICE

Section	
250.710	Classification of Emergency Services
250.720	General Requirements
250.725	Notification of Emergency Personnel
250.730	Community or Area-wide Planning
250.740	Disaster and Mass Casualty Program
250.750	Emergency Services for Sexual Assault Victims
	SUBPART H: RESTORATIVE AND REHABILITATION SERVICES
Section	
250.810	Applicability of Other Parts of These Requirements
250.820	General
250.830	Classifications of Restorative and Rehabilitation Services
250.840	General Requirements for all Classifications
250.850	Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860	Medical Direction
250.870	Nursing Care
250.880	Additional Allied Health Services

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section	
250.910	Nursing Services
250.920	Organizational Plan
250.930	Role in hospital planning

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250.940	Job descriptions
250.950	Nursing committees
250.960	Specialized nursing services
250.970	Nursing Care Plans
250.980	Nursing Records and Reports
250.990	Unusual Incidents
250.1000	Meetings
250.1010	Education Programs
250.1020	Licensure
250.1030	Policies and Procedures
250.1040	Patient Care Units
250.1050	Equipment for Bedside Care
250.1060	Drug Services on Patient Unit
250.1070	Care of Patients
250.1080	Admission Procedures Affecting Care
250.1090	Sterilization and Processing of Supplies
250.1100	Infection Control

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section	
250.1210	Surgery
250.1220	Surgery Staff
250.1230	Policies & Procedures
250.1240	Surgical Privileges
250.1250	Surgical Emergency Care
250.1260	Operating Room Register
250.1270	Surgical Patients
250.1280	Equipment
250.1290	Safety
250.1300	Operating Room
250.1305	Visitors in Operating Room
250.1310	Cleaning of Operating Room
250.1320	Postoperative Recovery Facilities

SUBPART K: ANESTHESIA SERVICES

Section	
250.1410	Anesthesia Service
	SUBPART L: RECORDS AND REPORTS

Section	
250.1510	Medical Records
250.1520	Reports

SUBPART M: FOOD SERVICE

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Section	
250.1610	Dietary Department Administration
250.1620	Facilities
250.1630	Menus and Nutritional Adequacy
250.1640	Diet Orders
250.1650	Frequency of Meals
250.1660	Therapeutic (Modified) Diets
250.1670	Food Preparation and Service
250.1680	Sanitation
SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES	
Section	
250.1710	Housekeeping
250.1720	Garbage, Refuse and Solid Waste Handling and Disposal
250.1730	Insect and Rodent Control
250.1740	Laundry Service
250.1750	Soiled Linen
250.1760	Clean Linen

SUBPART O: MATERNITY AND NEONATAL SERVICE

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250.1810	Applicability of other Parts of these regulations
250.1820	Maternity and Neonatal Service (Perinatal Service)
250.1830	General Requirements for all Maternity Departments
250.1840	Discharge of Newborn Infants from Hospital
250.1850	Rooming-In Care of Mother and Infant
250.1860	Special Programs
250.1870	Single Room Maternity Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE, EQUIPMENT, AND SYSTEMS--HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section	
250.1910	Maintenance
250.1920	Emergency electric service
250.1930	Water Supply
250.1940	Ventilation, Heating, Air Conditioning, and Air Changing Systems
250.1950	Grounds and Buildings Shall be Maintained
250.1960	Sewage, Garbage, Solid Waste Handling and Disposal
250.1970	Plumbing
250.1980	Fire and Safety

SUBPART Q: CHRONIC DISEASE HOSPITALS

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Section	
250.2010	Definition
250.2020	Requirements
SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE	
Section	
250.2110	Service Requirements
250.2120	Personnel Required
250.2130	Facilities for Services
250.2140	Pharmacy and Therapeutics Committee
SUBPART S: PSYCHIATRIC SERVICES	
Section	
250.2210	Applicability of other Parts of these Regulations
250.2220	Establishment of a Psychiatric Service
250.2230	The Medical Staff
250.2240	Nursing Service
250.2250	Allied Health Personnel
250.2260	Staff and Personnel Development and Training
250.2270	Admission, Transfer and Discharge Procedures
250.2280	Care of Patients
250.2290	Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
250.2300	Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section	
250.2410	Applicability of these Standards
250.2420	Submission of Plans for New Construction, Alterations or Additions to Existing Facility
250.2430	Preparation of Drawings and Specifications -- Submission Requirements
250.2440	General Hospital Standards
250.2450	Details
250.2460	Finishes
250.2470	Structural
250.2480	Mechanical
250.2490	Plumbing and Other Piping Systems
250.2500	Electrical Requirements

SUBPART U: CONSTRUCTION STANDARDS FOR EXISTING HOSPITALS

Section	
250.2610	Applicability of these Standards

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250.2620 Codes and Standards
 250.2630 Existing General Hospital Standards
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 250.2680 Electrical Requirements

SUBPART V: SPECIAL CARE AND SPECIAL SERVICE UNITS

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 250.2710 Special Care and/or Special Service Units
 250.2720 Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section
 250.2810 Applicability of Other Parts of These Requirements
 250.2820 Establishment of an Alcoholism and Intoxication Treatment Service
 250.2830 Classification and Definitions of Service and Programs
 250.2840 General Requirements for all Hospital Alcoholism Program
 Classifications
 250.2850 The Medical and Professional Staff
 250.2860 Medical Records
 250.2870 Referral
 250.2880 Client Legal and Human Rights

ILLUSTRATION A Seismic Zone Map
 APPENDIX A Codes and Standards (Repealed)
 EXHIBIT A Codes (Repealed)
 EXHIBIT B Standards (Repealed)
 EXHIBIT C Addresses of Sources (Repealed)
 TABLE A Measurements Essential for Level I, II, III Hospitals
 TABLE B Sound Transmission Limitations in General Hospitals
 TABLE C Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
 TABLE D General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
 TABLE E Piping Locations for Oxygen, Vacuum and Medical Compressed Air
 TABLE F General Pressure Relationships and Ventilation of Certain Hospital Areas
 TABLE G Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of

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150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 10009, effective

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SUBPART C: THE MEDICAL STAFF

Section 250.310 Organization

- a) The medical staff shall be organized in accordance with written bylaws, rules and regulations, approved by the Governing Board. The bylaws, rules and regulations shall specifically provide but not be limited to:
- 1) establishing written procedures relating to the acceptance and processing of initial applications for medical staff membership, granting and denying of medical staff reappointment, and medical staff membership or clinical privileges disciplinary matters in accordance with subsection (b) of this Section for county hospitals as defined in subsection (c) of Section 15-1 of the Illinois Public Aid Code [305 ILCS 5/15-1], or subsection (c) of

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this Section for all other hospitals. The procedures for initial applicants at any particular hospital may differ from those for current medical staff members. However, the procedures at any particular hospital shall be applied equally to each practitioner eligible for medical staff membership under Section 250.150 (Medical Staff) of this Part. The procedures shall provide that, prior to the granting of any medical staff privileges to an applicant, or renewing a current medical staff member's privileges, the hospital shall request of the director of the Department of Professional Regulation information concerning the licensure status and any disciplinary action taken against the applicant's or medical staff member's license. This provision shall not apply to medical personnel who enter a hospital to obtain organs and tissues for transplant from a deceased donor in accordance with the Uniform Anatomical Gift Act [775 ILCS 59]. (Section 10.4 of the Act);

- 2) identifying divisions and departments as are warranted (as a minimum, active and consulting divisions are required);
- 3) identifying officers as are warranted;
- 4) establishing committees as are warranted to assure the responsibility for such functions as pharmacy and therapeutics, infection control, utilization review, patient care evaluation, and the maintenance of complete medical records;
- 5) assuring that active medical staff meetings are held regularly, and that written minutes of all meetings are kept;
- 6) reviewing and analyzing the clinical experience of the hospital at regular intervals -- the medical records of patients to be the basis for such review and analysis;
- 7) identifying conditions or situations which require consultation, including consultation between medical staff members in complicated cases;
- 8) examining of tissue removed during operations by a qualified pathologist and requiring that the findings are made a part of the patient's medical record;
- 9) keeping completed medical records;
- 10) maintaining a Utilization Review plan which shall be in accordance with the Conditions of Participation for Hospitals in the Medicare Program;
- 11) establishing Medical Care Evaluation Studies;
- 12) establishing policies requiring a physician as first assistant to major and/or hazardous surgery, including written criteria to determine when an assistant is necessary;
- 13) assuring, through credentialing by the medical staff, that a qualified surgical assistant, whether a physician or non-physician, assists the operating surgeon in the operating room;
- 14) determining additional privileges that may be granted a staff member for the use of his/her employed allied health personnel in

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the hospital in accordance with policies and procedures recommended by the medical staff and approved by the governing authority. The policies and procedures shall include at least requirements that the staff member requesting this additional privilege shall submit for review and approval by the medical staff and the governing authority of the hospital:

- A) a curriculum vitae of the identified allied health personnel, and
 - B) a written protocol with a description of the duties, assignments and/or functions, including a description of the manner of performance within the hospital by the allied health personnel in relationship with other hospital staff;
 - 15) establishing a mechanism for assisting medical staff members in addressing physical and mental health problems;
 - 16) implementing a procedure for preserving medical staff credentialing files in the event of the closure of the hospital.
- b) The medical staff bylaws for county hospitals as defined in subsection (c) of Section 15-1 of the Illinois Public Aid Code shall include at least the following:
- 1) The procedures relating to evaluating individuals for staff membership, whether the practitioners are or are not currently members of the medical staff, shall include procedures for determination of qualifications and privileges, criteria for evaluation of qualifications, and procedures requiring information about current health status, current license status in Illinois, and biennial review of renewed license.
 - 2) The procedure shall grant to current medical staff members at least: written notice of an adverse decision by the Governing Board; an explanation and reasons for an adverse decision; the right to examine and/or present copies of relevant information, if any, related to an adverse decision; an opportunity to appeal an adverse decision; and written notice of the decision resulting from the appeal. The procedures for providing written notice shall include timeframes for giving such notice.
 - c) The medical staff bylaws for all hospitals except county hospitals shall include at least the following provisions for granting, limiting, renewing, or denying medical staff membership and clinical staff privileges: (Section 10.4(b) of the Act)
 - 1) Minimum procedures for initial applicants for medical staff membership shall include the following:
 - A) Written procedures relating to the acceptance and processing of initial applicants for medical staff membership.
 - B) Written procedures to be followed in determining an applicant's qualifications for being granted medical staff membership and privileges.
 - C) Written criteria to be followed in evaluating an applicant's qualifications.
 - D) An evaluation of an applicant's current health status and

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current license status in Illinois.

- E) A written response to each applicant that explains the reason or reasons for any adverse decision (including all reasons based in whole or in part on the applicant's medical qualifications or any other basis, including economic factors). (Section 10.4(b) of the Act)
- 2) Minimum procedures with respect to medical staff and clinical privilege determinations concerning current members of the medical staff shall include the following:
- A) A written explanation of the reasons for an adverse decision including all reasons based on the quality of medical care or any other basis, including economic factors.

B) A statement of the medical staff member's right to request a fair hearing on the adverse decision before a hearing panel whose membership is mutually agreed upon by the medical staff and the Hospital Governing Board. The hearing panel shall have independent authority to recommend action to the Hospital Governing Board. Upon the request of the medical staff member or the Hospital Governing Board, the hearing panel shall make findings concerning the nature of each basis for any adverse decision recommended to and accepted by the Hospital Governing Board.

- i) Nothing in subsection (c)(3)(C) of this Section limits a hospital's or medical staff's right to summarily suspend, without a prior hearing, a person's medical staff membership or clinical privileges if the continuation of practice of a medical staff member constitutes an immediate danger to the public, including patients, visitors, and hospital employees and staff. A fair hearing shall be commenced within 15 days after the suspension and completed without delay.

- ii) Nothing in subsection (c)(3)(C) of this Section limits a medical staff's right to permit, in the medical staff bylaws, summary suspension of membership or clinical privileges in designated administrative circumstances as specifically approved by the medical staff. This bylaw provision must specifically describe both the administrative circumstance that can result in a summary suspension and the length of the summary suspension. The opportunity for a fair hearing is required for any administrative summary suspension. Any requested hearing must be commenced within 15 days after the summary suspension and completed without delay. Adverse decisions other than suspension or other restrictions on the treatment or admission of patients may be imposed summarily and without a hearing under designated administrative

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circumstances as specifically provided for in the medical staff bylaws as approved by the medical staff.

iii) If a hospital exercises its option to enter into an exclusive contract and that contract results in the total or partial termination or reduction of medical staff membership or clinical privileges of a current medical staff member, the hospital shall provide the affected medical staff member 60 days prior notice of the effect on his or her medical staff membership or privileges. An affected medical staff member desiring a hearing under subsection (c)(2)(B) of this Section must request the hearing within 14 days after the date he or she is so notified. The requested hearing shall be commenced and completed (with a report and recommendation to the affected medical staff member, Hospital Governing Board, and medical staff) within 30 days after the date of the medical staff member's request. If agreed upon by both the medical staff and the Hospital Governing Board, the medical staff bylaws may provide for longer time periods.

- C) A statement of the member's right to inspect all pertinent information in the hospital's possession with respect to the decision.
- D) A statement of the member's right to present witnesses and other evidence at the hearing on the decision.
- E) A written notice and written explanation of the decision resulting from the hearings.
- F) A written notice of a final adverse decision by the Hospital Governing Board.
- G) Notice given 15 days before implementation of an adverse medical staff membership or clinical privileges decision based substantially on economic factors. This notice shall be given after the medical staff member exhausts all applicable procedures under subsection (c)(2)(B)(iii) of this Section, and under the medical staff bylaws in order to allow sufficient time for the orderly provision of patient care.
- H) Nothing in subsection (c)(2) of this Section limits a medical staff member's right to waive, in writing, the rights provided in subsection (c)(2)(A)-(G) of this Section upon being granted the written exclusive right to provide particular services at a hospital, either individually or as a member of a group. If an exclusive contract is signed by a representative of a group of physicians, a waiver contained in the contract shall apply to all members of the group unless stated otherwise in the contract. (Section 10.4(b) of the Act)
- 3) Every adverse medical staff membership and clinical privilege

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decision based substantially on economic factors shall be reported to the Hospital Licensing Board before the decision takes effect. The reports shall not be disclosed in any form that reveals the identity of any hospital or physician. These reports shall be utilized to study the effects that hospital medical staff membership and clinical privilege decisions based upon economic factors have on access to care and the availability of physician services. (Section 10.4(b) of the Act)

d) Regardless of any other categories (divisions of the medical staff) having privileges in the hospital, there shall be an active staff which must include physicians and may also include podiatrists and dentists, properly organized, which perform all the organizational duties pertaining to the medical staff. These duties include:

- 1) Maintenance of the proper quality of all medical care and treatment of inpatients and outpatients in the hospital. Proper quality of medical care and treatment includes:
 - A) availability and use of accurate diagnostic testing for the types of patients admitted;
 - B) availability and use of medical, surgical, and psychiatric treatment for patients admitted;
 - C) availability and use of consultation, diagnostic tools and treatment modalities for the care of patients admitted including the care needed for complications which may be expected to occur;
 - D) availability and performance of auxiliary and associate staff with documented training and experience in diagnostic and treatment modalities in use by the medical staff and documented training and experience in managing complications which may be expected to occur.
- 2) Organization of the medical staff, including adoption of rules and regulations for its government (which require the approval of the governing body), election of its officers or recommendations to the governing body for appointment of the officers, and recommendations to the governing body upon all appointments to the staff and grants of hospital privileges.
- 3) Other recommendations to the governing body regarding matters within the purview of the medical staff.
- e) The medical staff may include one or more divisions in addition to the active staff, but this in no way modifies the duties and responsibilities of the active staff.
- f) For the purpose of this Section only:
 - 1) Adverse decision means a decision reducing, restricting, suspending, revoking, denying, or not renewing medical staff membership or clinical privileges. (Section 10.4(b) of the Act)
 - 2) Economic factor means any information or reasons for decisions unrelated to quality of care or professional competency. (Section 10.4(b) of the Act)
 - 3) Privilege means permission to provide medical or other patient

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care services and permission to use hospital resources, including equipment, facilities and personnel that are necessary to effectively provide medical or other patient care services. This definition shall not be construed to require a hospital to acquire additional equipment, facilities, or personnel to accommodate the granting of privileges. (Section 10.4(b) of the Act)

(Source: Amended at 23 Ill. Reg. 1007, effective JAN 15, 1990.)

SUBPART D: PERSONNEL SERVICE

Section 250.435 Health Care Worker Background Check

- a) The hospital shall not knowingly hire any individual after January 17, 1997, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
- 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417 and 474);
- 3) Kidnapping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 384 to 386));
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, pars. Sections 252, 252.1, and 252.4);
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38,

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- 6) 4 Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1961, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1961, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 55, 56, and 56a to 60b);
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) 5 Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16); Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 109, 141, 142, 490, and 491);
- 10) 6 Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11) 7 Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) 8 Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15) 9 Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS

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- 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
- 17) 1 Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19) 2 Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 84 to 86, 88 and 501));
- 20) 3 Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 21) 3 Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 48 to 53 and 236 to 238));
- 22) 4 Unlawful use of weapons, or aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g));
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));
- 26) 5 Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)); or
- 27) 6 Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1));
- b) The hospital shall not knowingly employ or retain any individual after January 1, 1997, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting

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to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶167 of this Section unless the applicant, employee, or employer obtains a waiver pursuant to subsections (k) and (m) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:

- 1) "Applicant" means an individual seeking employment with a hospital who has received a bona fide conditional offer of employment.
- 2) "Conditional offer of employment" means a bona fide offer of employment by a hospital to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) ¶167 of this Section.
- 3) "Direct Care" means the provision of nursing care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

d) Beginning January 1, 1996, when the hospital makes a conditional offer of employment to an applicant who is not exempt under subsection (q) of this Section, for a position with duties that involve direct care for patients, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.

e) The hospital shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

f) The hospital may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of this Section.

g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

- 1) That the hospital shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
- 2) That the applicant or employee has a right to obtain a copy of

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the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.

- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (l) of this Section.
- 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (l) of this Section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (l) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)
- h) A hospital may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
- i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶167 of this Section may request that the hospital or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- j) A hospital having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The hospital may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)
- k) An applicant, employee or employer may request a waiver to subsection

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(a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and
 - 2) A certified check, money order or hospital check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- 1) The Department may accept the results of the fingerprint-based UCIA Criminal Records Check instead of the items required by subsections (k)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)
- m) The Department may grant a waiver based on mitigating circumstances, which may include:

- 1) The age at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant's or employee's criminal history since the conviction;
- 5) The applicant's or employee's work history;
- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients. (Section 40(b) of the Health Care Worker Background Check Act)

n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) A hospital is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

p) A hospital may retain the individual in a direct care position if the individual presents clear and convincing evidence to the hospital that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during

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which the crime was committed or during the incarceration period stated in the report;

- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

q) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State; or
- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for patients. (Section 20 of the Health Care Worker Background Check Act)

r) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

s)† The hospital shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The hospital shall include the individual's Social Security number on the criminal history record check results.

t)† The hospital shall retain on file for a period of 5 years records of criminal records requests for all employees. The hospital shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

u)†† The hospital shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 23 Ill. Reg. 1007, effective JAN 15 1999)

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- 1) Heading of the Part: Home Health Agency Code
- 2) Code Citation: 77 Ill. Adm. Code 245
- 3) Section Numbers: Adopted Action:
245.72 Amendments
- 4) Statutory Authority: Home Health Agency Licensing Act [210 ILCS 55]
- 5) Effective date of amendments: January 15, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice(s) of Proposal was Published in Illinois Register: April 3, 1998 - 22 Ill. Reg. 6109

- 10) Has JCAR issued a Statement of Objections to these Rules? No

- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

In Section 245.72(r), the second word in the first line was changed to "EMPLOYER".

The following changes were made in response to comments and suggestions of JCAR:

1. In Section 245.72(a)(2), line 3, the semi-colon was changed to a comma.

2. In Section 245.72(g) "based" was added after "non-fingerprint".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? All agreed-upon changes have been made.

- 13) Will these amendments replace emergency amendments currently in effect?
No

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- 14) Are there any other Amendments Pending on this Part? No
- 15) Summary and purpose of the amendments: This rulemaking implements Public Act 90-441, which amended the Health Care Worker Background Check Act. New disqualifying crimes have been added in Section 245.72. Additional new statutory language states that an employer need not initiate an additional criminal background check for an employee for whom a background check was initiated between January 1, 1996, and January 1, 1998.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail Devito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187
(rules@idph.state.il.us).

The full text of the adopted amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245
ILLINOIS HOME HEALTH AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section
245.10 Purpose
245.20 Definitions
245.25 Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section
245.30 Organization and Administration
245.40 Staffing and Staff Responsibilities
245.50 Services
245.60 Annual Financial Statement
245.70 Home Health Aide Training
245.72 Health Care Worker Background Check

SUBPART C: LICENSURE PROCEDURES

Section
245.80 Licensure Required
245.90 License Application
245.100 Provisional License
245.110 Inspections and Investigations
245.120 Violations
245.130 Adverse Licensure Actions
245.140 Penalties and Fines
245.150 Hearings

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14

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Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 23 Ill. Reg. 1026 effective JAN 15 1999.

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.72 Health Care Worker Background Check

a) The agency shall not knowingly hire any individual after January 17, 1996, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));

2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3; Ill. Rev. Stat. 1985; ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));

3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 384 to 386));

4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 252, 252.1, and 252.4));

5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2 and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));

6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1,

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12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1961, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 55, 56, and 56a to 60b);

7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));

8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));

9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 109, 141, 142, 490, and 491));

10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));

11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));

12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));

13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));

14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));

15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));

16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));

17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal

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Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));

18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);

19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 84 to 86, 88 and 501));

20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));

21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 48 to 53 and 236 to 238));

22) Unlawful use of weapons, or aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, and 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, and 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g));

23) Armed violence - elements of the offense (Section 33a-2 of the Criminal Code of 1961 [720 ILCS 5/33a-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33a-2));

24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));

25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 5/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));

26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707 and 709)); or

27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).

b) The agency shall not knowingly employ or retain any individual after January 1, 1997, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (k) and (m) of this Section.

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(Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:

- 1) "Applicant" means an individual seeking employment with an agency who has received a bona fide conditional offer of employment.
- 2) "Conditional offer of employment" means a bona fide offer of employment by an agency to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) ¶167 of this Section.
- 3) "Direct care" means the provision of nursing care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

d) Beginning January 1, 1996, when the agency makes a conditional offer of employment to an applicant who is not exempt under subsection (q) of this Section, for a position with duties that involve direct care for patients, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.

e) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

f) The agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of this Section.

g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

- 1) That the agency shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
- 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.
- 3) That the applicant, if hired conditionally, may be terminated if

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the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

h) An agency may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶167 of this Section may request that the agency or its designee or the Department commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

j) An agency having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The agency may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

k) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA criminal records check form

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(Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and

2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

1) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (k)(1) and (2) above.

m) The Department may grant a waiver based on mitigating circumstances, which may include:

- 1) The age at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients. (Section 40(b) of the Health Care Worker Background Check Act)

n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) An agency is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

p) An agency may retain the individual in a direct care position if the individual presents clear and convincing evidence to the agency that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (2) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the

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individual was not convicted of a disqualifying crime.

q) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

r) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

s) The agency must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The agency shall include the individual's Social Security number on the criminal history record check results.

t) The agency shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

u) The agency shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 23 Ill. Reg. 1028, effective JAN 15 1998)

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- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Numbers:
340.1120 Amendments
340.1125 New Section
340.1310 Amendments
340.1377 Amendments
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of amendments: January 15, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposal was Published in Illinois Register: April 3, 1998 - 22 Ill. Reg. 6119
- 10) Has JCAR issued a Statement of Objections to this/these Rules? No
- 11) Difference between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period: No comments were received.

The following changes were made in response to comments and suggestions of JCAR:
 1. In Section 340.1120(e), "[220 ILCS 4]" was added after "ACT".
 2. In Section 340.1377(7), "-based" was added after "NON- FINGERPRINT".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? All agreed-upon changes have been made.
- 13) Will these amendments replace emergency amendments currently in effect? No

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- 14) Are there any other Amendments Pending on this Part?
Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
340.330	Amendments	22 Ill. Reg. 13397
340.1335	Amendments	22 Ill. Reg. 13397
340.1505	Amendments	22 Ill. Reg. 13397
340.1510	Amendments	22 Ill. Reg. 13397
340.1520	Amendments	22 Ill. Reg. 13397
340.1800	Amendments	22 Ill. Reg. 13397
340.1900	Amendments	22 Ill. Reg. 13397
340.1910	Amendments	22 Ill. Reg. 13397
340.1920	Amendments	22 Ill. Reg. 13397
340.1930	Repealer	22 Ill. Reg. 13397
340.1940	Amendments	22 Ill. Reg. 13397

- 15) Summary and purpose of the amendments: Section 340.1120 has been amended and Section 340.1125 has been added in response to Public Act 90-341, which created the Alzheimer's Special Care Disclosure Act and amended the Nursing Home Care Act. A facility that has an Alzheimer's special care unit or center is required to provide information to the Department at the time of licensure renewal concerning the services offered. The information must also be provided to actual or potential clients. Section 340.1310 has been amended to implement Public Act 90-366, which amended the Nursing Home Care Act to require a facility to advise a prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. Section 340.1310 has been amended to add disqualifying crimes under the Health Care Worker Background Check Act, pursuant to Public Act 90-441. Additional new statutory language states that an employer need not initiate an additional criminal background check for an employee for whom a background check was initiated between January 1, 1996, and January 1, 1998.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail Devito, Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187
(rules @ idph.state.il.us).

The full text of the adopted amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 340

ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section	
340.1000	Definitions
340.1010	Incorporated and Referenced Materials
340.1110	General Requirements
340.1115	Federal Veterans' Regulations
340.1120	Application for License
340.1125	Alzheimer's Special Care Disclosure
340.1130	Criteria for Adverse Licensure Actions
340.1140	Denial of Initial License
340.1150	Revocation or Denial of Renewal of License
340.1160	Inspections, Surveys, Evaluations, and Consultations
340.1170	Presentation of Findings by the Department
340.1190	Ownership Disclosure
340.1200	Monitor and Receivership
340.1210	Determination of a Violation
340.1220	Determination of the Level of a Violation
340.1230	Plans of Correction and Reports of Correction
340.1240	Calculation of Penalties
340.1245	Conditions for Assessment of Penalties
340.1250	Reduction or Waiver of Penalties
340.1255	Supported Congregate Living Arrangement Demonstration
340.1260	Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section	
340.1300	Facility Policies
340.1310	Admission and Discharge Policies
340.1320	Disaster Preparedness
340.1330	Serious Incidents and Accidents
340.1335	Infection Control
340.1340	Facility Record Requirements
340.1350	Personnel Policies
340.1360	Initial Health Evaluation for Employees
340.1370	Administrator
340.1375	Personnel Requirements
340.1376	Registry of Certified Nurse Aides
340.1377	Health Care Worker Background Check

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SUBPART C: RESIDENT RIGHTS

Section	
340.1400	Implementation of Resident Rights and Facility Responsibilities
340.1410	General
340.1420	Contract Between Resident and Facility
340.1430	Residents' Advisory Council
340.1440	Abuse and Neglect
340.1450	Communication and Visitation
340.1460	Resident's Funds
340.1470	Transfer or Discharge
340.1480	Complaint Procedures
340.1490	Private Right of Action

SUBPART D: HEALTH SERVICES

Section	
340.1500	Medical Care Policies
340.1505	Medical, Nursing and Restorative Services
340.1510	Communicable Disease Policies
340.1520	Tuberculin Skin Test Procedures
340.1530	Physician Services
340.1535	Dental Programs
340.1540	Non-emergency Treatments
340.1550	Obstetrical and Gynecological Care
340.1560	Nursing Personnel
340.1570	Personal Care
340.1580	Restraints
340.1590	Nonemergency Use of Physical Restraints
340.1600	Emergency Use of Physical Restraints
340.1610	Unnecessary, Psychotropic, and Anti psychotic Drugs
340.1620	Medication Administration
340.1630	Self-Administration of Medication

SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section	
340.1650	Medication Policies and Procedures
340.1655	Conformance with Physician's Orders
340.1660	Administration of Medication
340.1665	Control of Medication
340.1670	Labeling and Storage of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section	
340.1700	Recreational and Activity Programs
340.1710	Social Services

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340.1720 Work Programs

SUBPART G: RESIDENT RECORDS

Section	
340.1800	Resident Record Requirements
340.1810	Content of Medical Record
340.1820	Records Pertaining to Resident's Property
340.1830	Retention, Transfer, and Inspection of Records
340.1840	Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section	
340.1900	Food Service Staff
340.1910	Diet Orders
340.1920	Adequacy of Diet and Meal Pattern
340.1930	Therapeutic Diets
340.1940	Menu Planning
340.1950	Food Preparation and Service
340.1960	Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section	
340.2000	Maintenance
340.2010	Water Supply, Sewage Disposal and Plumbing
340.2020	Housekeeping
340.2030	Laundry Services
340.2040	Furnishings
340.2050	Equipment and Supplies
TABLE A	Heat Index Table/Apparent Temperature
TABLE B	Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendments at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038.

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SUBPART A: GENERAL PROVISIONS

Section 340.1120 Application for License

- a) Application for a license to establish or operate a facility shall be made in writing and submitted, with other such information as the Department may require, on forms provided by the Department.
- b) The license is not transferable. It is issued to a specific licensee and for a specific location. The license and the valid current renewal certificate immediately become void and shall be returned to the Department when a new license is issued to operate the facility; or when operation is discontinued; or when operation is moved to a new location; or when the licensee (if an individual) dies; or when the licensee (if a corporation or partnership) dissolves or terminates; or when the licensee (whatever the entity) ceases to be.
- c) The Department may issue licenses or renewals for periods of not less than six (6) months nor more than eighteen (18) months for facilities with annual licenses and not less than 18 months nor more than 30 months for facilities with 2-year licenses in order to distribute the expiration dates of such licenses throughout the calendar year. Fees for such licenses shall be prorated on the basis of the portion of a year for which they are issued. (Section 3-110 of the Act) The prorated fee will be as follows:
- 1) Six (6) months to less than twelve (12) months - \$150-00;
 - 2) Twelve (12) months to eighteen (18) months - \$200-00;
 - 3) Eighteen (18) months to less than twenty-four (24) months - \$350-00;
 - 4) Twenty-four (24) months to thirty (30) months - \$400-00.
- d) The licensee shall qualify for issuance of a two-year license if the licensee has met the criteria contained in Section 3-110(b) of the Act for the last twenty-four (24) consecutive months.
- e) A renewal application shall not be approved unless the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Special Care Disclosure Act [220 ILCS 4] and Section 340.1125 of this Part, if applicable. (Section 3-115 of the Act)

(Source: Amended at 23 Ill. Reg. 1038 effective

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Section 340.1125 Alzheimer's Special Care Disclosure

A facility that offers to provide care for persons with Alzheimer's disease through an Alzheimer's special care unit or center shall disclose to the Department or to a potential or actual client of the facility the following information in writing on request of the Department or client:

- a) The form of care or treatment that distinguishes the facility as suitable for persons with Alzheimer's disease;

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- b) The philosophy of the facility concerning the care or treatment of persons with Alzheimer's disease;
- c) The facility's pre-admission, admission, and discharge procedures;
- d) The facility's assessment, care planning, and implementation guidelines in the care and treatment of persons with Alzheimer's disease;
- e) The facility's minimum and maximum staffing ratios, specifying the general licensed health care provider to client ratio and the trainee health care provider to client ratio;
- f) The facility's physical environment;
- g) Activities available to clients at the facility;
- h) The role of family members in the care of clients at the facility; and
- i) The costs of care and treatment under the program or at the center.
(Section 15 of the Alzheimer's Special Care Disclosure Act)

(Source: Added JAN 23 1993, Ill. Reg. 1038, effective

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1310 Admission and Discharge Policies

- a) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or distinct part of a facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.
- b) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning keeping of persons who become pregnant while they are residents of the facility. If these policies permit these persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to these persons from in-house or outside resources. (See Section 340.1550.)
- c) Residents with a history of aggressive or self-abusive behavior may be admitted only if the facility has in place appropriate, effective and individualized programs to manage the resident's behaviors and adequate, properly trained and supervised staff to administer the programs.
- d) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.
- e) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.

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- f) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.
- g) A facility shall document all leaves and temporary transfers. Such documentation shall include date, time, condition of resident, anticipated date of return, and any special instructions on medication dispensed.
- h) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended at 23 Ill. Reg. 1038, effective JAN 15 1990)

Section 340.1377 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 17, 1996, in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
- 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 417, and 474));
- 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 384 to 386));
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, pars. Sections 252, 252.1, and 252.4));
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2 and 11-20.1] (formerly Ill. Rev.

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Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104);

6) ~~4~~ ⁵ Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 55, 56, and 56a to 60b));

7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));

8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));

9) ⁵ Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 109, 141, 142, 490, and 491));

10) ⁶ Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));

11) ⁷ Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));

12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));

13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));

14) ⁸ Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 62, 207 to 218, 240 to 244, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));

15) ⁹ Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]

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(formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));

16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));

17) ¹⁰ Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));

18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);

19) ¹¹ Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 84 to 86, 88, and 501));

20) ¹² Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));

21) ¹³ Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 48 to 53 and 236 to 238));

22) ¹⁴ Unlawful use of weapons, or aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));

23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));

24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));

25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));

26) ¹⁵ Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707 and 709)); or

27) ¹⁶ Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).

b) The facility shall not knowingly employ or retain any individual after

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January--17--1997, in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶167 of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (k) and (m) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:

- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
- 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) ¶167 of this Section.
- 3) "Direct care" means the provision of nursing care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual.
- 4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)
- d) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (q) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA Criminal History Record Check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)
- e) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization.
- f) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of this Section.
- g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:
 - 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
 - 2) That the applicant or employee has a right to obtain a copy of

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- the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.
- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section.
 - 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section.
 - 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)
 - h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
 - i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶167 of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
 - j) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)
 - k) An applicant, employee or employer may request a waiver to subsections

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(a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and
 - 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- 1) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (k)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)
- m) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) The age at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Nurse Aide Registry records; and
 - 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

p) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during

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which the crime was committed or during the incarceration period stated in the report;

- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

q) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

r) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

s) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

t) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

u) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 23 Ill. Reg. 1038, effective JAN 15 1998)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code

2) Code Citation: 77 Ill. Adm. Code 350

3) Section Numbers: Adopted Action:

350.630 Amendments
350.681 Amendments

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective date of amendments: January 15, 1999

6) Does this amendment contain an automatic repeal date? No

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice(s) of Proposal was Published in Illinois Register: April 3, 1998
22 Ill. Reg. 6133

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

No comments were received.

The following changes were made in response to comments and suggestions of JCAR.

In Section 350.681(g), "-based" was added after "NON-FINGERPRINT".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? All agreed-upon changes have been made.

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

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<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
350.330	Amendments	22 Ill. Reg. 13432
350.1220	Amendments	22 Ill. Reg. 13432
350.1223	New Section	22 Ill. Reg. 13432
350.1225	Amendments	22 Ill. Reg. 13432
350.1230	Amendments	22 Ill. Reg. 13432
350.1610	Amendments	22 Ill. Reg. 13432
350.1810	Amendments	22 Ill. Reg. 13432
350.1840	Amendments	22 Ill. Reg. 13432
350.1850	Amendments	22 Ill. Reg. 13432
350.1860	Repealer	22 Ill. Reg. 13432
350.1880	Amendments	22 Ill. Reg. 13432
350.Appendix B	Repealer	22 Ill. Reg. 13432

15) Summary and purpose of the amendments:

Section 350.630 has been amended to implement Public Act 90-366, which amended the Nursing Home Care Act to require a facility to advise a prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. Section 350.681 has been amended to add disqualifying crimes under the Health Care Worker Background Check Act, pursuant to Public Act 90-441. Additional new statutory language states that an employer need not initiate an additional criminal background check for an employee for whom a background check was initiated between January 1, 1996, and January 1, 1998.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail DeVito, Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187
(rules@idph.state.il.us).

The full text of the adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse License Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.315	Supported Congregate Living Arrangement Demonstration
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

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SUBPART B: ADMINISTRATION

Section	
350.510	Administrator
Section	
350.610	Management Policies
350.620	Resident Care Policies
350.625	Determination of Need Screening
350.630	Admission and Discharge Policies
350.640	Contract Between Resident and Facility
350.650	Residents' Advisory Council
350.660	General Policies
350.670	Personnel Policies
350.675	Initial Health Evaluation for Employees
350.680	Developmental Disabilities Aides
350.681	Health Care Worker Background Check
350.683	Registry of Developmental Disabilities Aides
350.685	Student Interns
350.690	Disaster Preparedness
350.700	Serious Incidents and Accidents
Section	
350.810	Personnel
350.820	Consultation Services
350.830	Personnel Policies
Section	
350.1010	Service Programs
350.1020	Psychological Services
350.1030	Social Services
350.1040	Speech Pathology and Audiology Services
350.1050	Recreational and Activities Services
350.1060	Training and Rehabilitation Services
350.1070	Training and Rehabilitation Staff
350.1080	Restraints
350.1082	Nonemergency Use of Physical Restraints
350.1084	Emergency Use of Physical Restraints
350.1086	Unnecessary, Psychotropic and Antipsychotic Drugs
Section	
350.1080	Restraints
350.1082	Nonemergency Use of Physical Restraints
350.1084	Emergency Use of Physical Restraints
350.1086	Unnecessary, Psychotropic and Antipsychotic Drugs

SUBPART E: RESIDENT LIVING SERVICES

SUBPART F: HEALTH SERVICES

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350.1210	Health Services
350.1220	Physician Services
350.1225	Tuberculin Skin Test Procedures
350.1230	Nursing Services
350.1235	Life-Sustaining Treatments
350.1240	Dental Services
350.1250	Physical and Occupational Therapy Services

SUBPART G: MEDICATIONS

Section	
350.1410	Medication Policies and Procedures
350.1420	Conformance with Physician's Orders
350.1430	Administration of Medication
350.1440	Labeling and Storage
350.1450	Control of Narcotics and Legend Drugs

SUBPART H: RESIDENT AND FACILITY RECORDS

Section	
350.1610	Resident Record Requirements
350.1620	Content of Medical Records
350.1630	Confidentiality of Resident's Records
350.1640	Records Pertaining to Residents' Property
350.1650	Retention and Transfer of Resident Records
350.1660	Other Resident Record Requirements
350.1670	Staff Responsibility for Medical Records
350.1680	Retention of Facility Records
350.1690	Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section	
350.1810	Director of Food Services
350.1820	Dietary Staff in Addition to Director of Food Services
350.1830	Hygiene of Dietary Staff
350.1840	Diet Orders
350.1850	Adequacy of Diet and Meal Pattern
350.1860	Therapeutic Diets
350.1870	Scheduling Meals
350.1880	Menu Planning
350.1890	Food Preparation and Service
350.1900	Food Handling Sanitation
350.1910	Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

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Section	
350.2010	Maintenance
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SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

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350.2210	Furnishings
350.2220	Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section	
350.2410	Codes
350.2420	Water Supply
350.2430	Sewage Disposal
350.2440	Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section	
350.2610	Applicability of These Standards
350.2620	Codes and Standards
350.2630	Preparation of Drawings and Specifications
350.2640	Site
350.2650	Administration and Public Areas
350.2660	Nursing Unit
350.2670	Dining, Living, Activities Rooms
350.2680	Therapy and Personal Care
350.2690	Service Departments
350.2700	General Building Requirements
350.2710	Structural
350.2720	Mechanical Systems
350.2730	Plumbing Systems
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SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section	
350.2910	Applicability
350.2920	Codes and Standards
350.2930	Preparation of Drawings and Specifications
350.2940	Site
350.2950	Administration and Public Areas
350.2960	Nursing Unit

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350.2970 Living, Dining, Activities Rooms
350.2980 Treatment and Personal Care
350.2990 Service Departments
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SUBPART O: RESIDENT'S RIGHTS

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350.3220 Medical and Personal Care Program
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350.3710 Applicability of Other Provisions of this Part
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350.3840 Living, Dining, Activity Rooms
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350.3890 Corridors
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350.3910 Exit Facilities and Subdivision of Floor Areas
350.3920 Stairways, Vertical Openings and Doorways
350.3930 Hazardous Areas and Combustible Storage
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350.4020 Equivalencies
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SUBPART Q: DAY CARE PROGRAMS

Section
350.4210 Day Care in Long-Term Care Facilities

APPENDIX A Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
APPENDIX B Federal Requirements Regarding Residents' Rights
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TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
TABLE D Food Service Sanitation Rules and Regulations, 77 Ill. Adm. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
TABLE F Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended

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- a) Residents shall only be admitted who have had a comprehensive evaluation covering physical, emotional, social and cognitive factors, conducted by an appropriately constituted interdisciplinary team.
- b) No resident determined by professional evaluation to be in need of skilled level of nursing care shall be admitted to, or kept in, an Intermediate Care Facility, or Intermediate Care Facility for the Developmentally Disabled, or any distinct part of the facility designated and classified for intermediate care for the developmentally disabled.
- c) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.
- d) A facility for infants and children under 18 years of age shall be used exclusively for children. Persons under 18 years of age may not be cared for in a facility for adults without prior approval from the Department. Such approval will be granted only when it is the best possible placement for the person under the particular set of circumstances.
- e) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.
- f) If a resident insists on being discharged and is discharged against the advice of a physician or a Qualified Mental Retardation Professional, the facts involved in the situation shall be fully documented in the resident's clinical record.
- g) No resident shall be discharged without the concurrence of the attending physician. All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.
- h) No resident shall be admitted with a communicable, contagious or infectious disease except as set forth in this Part Section 350-1328(f)-through-(k).
- i) A facility shall not admit more residents than the number authorized by the license issued to it.
- j) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended at 23 Ill. Reg. 1052, effective JAN 15 1999)

Section 350.681 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January--17

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at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective JAN 15 1999.

SUBPART C: POLICIES

Section 350.630 Admission and Discharge Policies

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1996 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2) of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));

2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));

3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 384 to 386));

4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 252, 252.1, and 252.4));

5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));

6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 55, 56, and 56a to 60b));

7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));

8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par.

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12-11.1);

9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 109, 141, 142, 490, and 491));

10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));

11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));

12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));

13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));

14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));

15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));

16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));

17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));

18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);

19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 84 to 86, 88, and 501));

20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));

21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961

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[720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 48 to 53 and 236 to 238));

22) ~~44~~ Unlawful use of weapons, or aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, and 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, and 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));

23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));

24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));

25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/531] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));

26) ~~57~~ Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)); or

27) ~~67~~ Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).

b) The facility shall not knowingly employ or retain any individual after January 1, 1997, in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶67 of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (k) and (m) of this Section. (Section 25 of the Health Care Worker Background Check Act) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) ¶67 of this Section.

3) "Direct care" means the provision of nursing care or assistance with meals, dressing, movement, bathing, or other personal needs

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or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

d) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (q) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

e) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

f) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of this Section.

g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶67 of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27)

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§167 of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (h) of this Section.

- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶167 of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

j) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

k) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and
- 2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

l) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (k)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

m) The Department may grant a waiver based on mitigating circumstances, which may include:

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- 1) The age at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant's or employee's criminal history since the conviction;

- 5) The applicant's or employee's work history;
- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

p) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) ¶167 of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

q) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health

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care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

1) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

s) † The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

t) † The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

u) † The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 23 Ill. Reg. ~~1052~~ 1052.13 effective

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1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code

2) Code Citation: 77 Ill. Adm. Code 390

3) Section Numbers: 390.630
Adopted Action: Amendments
390.631

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective date of amendments: January 15, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice(s) of Proposal was Published in Illinois Register: April 3, 1998 - 22 Ill. Reg. 6150

10) Has JCAR issued a Statement of Objections to this/these Rules? No

11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

No comments were received.

The following changes were made in response to comments and suggestions of JCAR:

1. In Section 390.630, the comma after "and" was stricken.

2. In Section 390.681(g), "-based" was added after "non-fingerprint".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? All agreed-upon changes have been made.

13) Will these amendments replace emergency amendments currently in effect? No

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14) Are there any other Amendments Pending on this Part? Yes

If Yes:

Section Numbers	Adopted Action	Illinois Register Citation
390.330	Amendments	22 Ill. Reg. 13480
390.1020	Amendments	22 Ill. Reg. 13480
390.1035	Amendments	22 Ill. Reg. 13480
390.1610	Amendments	22 Ill. Reg. 13480
390.1810	Amendments	22 Ill. Reg. 13480
390.1840	Amendments	22 Ill. Reg. 13480
390.1850	Amendments	22 Ill. Reg. 13480
390.1880	Amendments	22 Ill. Reg. 13480
Appendix A	Repealer	22 Ill. Reg. 13480

15) Summary and purpose of the amendments: Section 390.630 has been amended to implement Public Act 90-366, which amended the Nursing Home Care Act to require a facility to advise a prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. Section 390.681 has been amended to add disqualifying crimes under the Health Care Worker Background Check Act, pursuant to Public Act 90-441. Additional new statutory language states that an employer need not initiate an additional criminal background check for an employee for whom a background check was initiated between January 1, 1996, and January 1, 1998.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187
(rules@idph.state.il.us)

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390

LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

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390.140	Issuance of an Initial License for a New Facility
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390.278	Plans of Correction
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390.286	Determination to Assess Penalties
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Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age
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Daily Nutritional Requirements By Age Group

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TABLE E

TABLE F

AUTHORITY:

45).

Implementing and authorized by the Nursing Home Care Act [210 ILCS

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SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7 Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 15, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16526, effective September 18, 1998; amended at 23 Ill. Reg. 10697, effective

SUBPART C: POLICIES

Section 390.630 Admission and Discharge Policies

- a) Residents shall only be admitted who have had a comprehensive evaluation of their medical history and physical, and psycho/social factors, conducted by an appropriately constituted interdisciplinary team. No resident determined by professional evaluation to be in need

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- of services not readily available in a particular facility shall be admitted to or kept in that facility. Additionally, emotional and cognitive histories shall be evaluated when applicable and available. (B)
- b) A facility for persons under 22 years of age shall be used exclusively for persons under 22 years of age, except when the facility's interdisciplinary team has determined that either initial or continued placement in the facility is appropriate because of due to the resident's physical and mental functioning status, and that the facility has the service resources to meet the needs of the resident. The facility interdisciplinary team shall further determine that placement shall not constitute a serious danger to the other residents.
- c) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is a minor, by the resident's parent or guardian.
- d) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.
- e) No resident shall be discharged without the concurrence of the attending physician. If such approval is given, the facility shall have the right to discharge or transfer a resident to an appropriate resource in accordance with Sections 3-401 through 3-423 of the Act.
- f) No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Section 390.1020(c)(1) through (5) unless the facility is properly staffed and equipped to treat such conditions as approved in writing by the Department (see Section 390.1020 of this Part).
- g) A facility shall not admit more residents than the number authorized by the license issued to it. (B)
- h) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Nursing Home Care Act)

(Source: Amended at 23 Ill. Reg. 10697, effective January 15, 1999)

Section 390.681 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1

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- and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
- 2)†† Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));
- 3)†† Kidnapping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 384 to 386));
- 4)†† Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, pars. Sections 252, 252.1, and 252.4));
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1); Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
- 6)†† Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1961, ch. 38, par. 12-4.1; 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 55, 56, and 56a to 60b));
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9)†† Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16); Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and

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- 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 109, 141, 142, 490, and 491));
- 10)†† Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11)†† Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14)†† Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15)†† Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
- 17)†† Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19)†† Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 84 to 86, 88, and 501));
- 20)†† Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 21)†† Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 40 to 53 and 236 to 238));
- 22)†† Unlawful use of weapons, or aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, and 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, and

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24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. **Sections** 152, 152a, 155, 155a to 158b, 414a to 414c, 414e and 414g));

23) **Armed violence** - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));

24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));

25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));

26) **Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or deliver to person under 18; violation by person under 18** (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707 and 709)); or

27) **Manufacture, delivery or trafficking of controlled substances** (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).

b) The facility shall not knowingly employ or retain any individual after January 1, 1997, in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶16 of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (k) and (m) of this Section. (Section 25 of the Health Care Worker Background Check Act)

c) For the purpose of this Section:

1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) ¶16 of this Section.

3) "Direct care" means the provision of nursing care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual.

4) "Initiate" means the obtaining of the authorization for a record

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check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

d) **Beginning January 1, 1996**, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (q) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

e) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

f) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of this Section.

g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶16 of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶16 of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of

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any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

- h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
- i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶167 of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- j) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)
- k) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:
 - 1) A completed fingerprint-based UCIA Criminal Records Check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and
 - 2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.
- l) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (k)(1) and (2) above.
- m) The Department may grant a waiver based on mitigating circumstances, which may include:
 - 1) The age at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;

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- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)
- n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)
- o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)
- p) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) ¶167 of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:
 - 1) certified court records;
 - 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
 - 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
 - 4) a signed affidavit from the individual concerning the validity of the report; or
 - 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.
- q) This Section shall not apply to:
 - 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
 - 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
 - 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)
- r) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998.

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This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

s)† The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

t)† The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

u)† The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 23 Ill. Reg. 1060.32, effective 1/1/98)

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1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3) Section Numbers: Adopted Action:
 330.160 Amendments
 330.163 New Section
 330.720 Amendments
 330.911 Amendments

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective date of amendments: January 15, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice(s) of Proposal was Published in Illinois Register: April 3, 1998 - 22 Ill. Reg. 6166

10) Has JCAR issued a Statement of Objections to these Rules? No

11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period: No comments were received.

The following changes were made in response to comments and suggestions of JCAR:

1. In Section 330.160, "[220 ILCS 4]" was added after "ACT".

2. In Section 330.720(a)(2) the period after "Chicago" was stricken and a period was added after the closing quotation mark.

3. In Section 330.911(a)(9), a closing bracket was added after "12-16" in the third line.

4. In Section 330.911(g), "-based" was added after "NON-FINGERPRINT".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the Agency and JCAR been made as

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indicated in the agreement letter issued by JCAR? All agreed-upon changes have been made.

13) Will these amendments replace emergency amendments currently in effect?
No

14) Are there any other Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
330.330	Amendments	22 Ill. Reg. 13522
330.1130	Amendments	22 Ill. Reg. 13522
330.1135	Amendments	22 Ill. Reg. 13522
330.1710	Amendments	22 Ill. Reg. 13522
330.1940	Amendments	22 Ill. Reg. 13522
330.1950	Amendments	22 Ill. Reg. 13522
330.1960	Repealer	22 Ill. Reg. 13522
330.1980	Amendments	22 Ill. Reg. 13522
300.Appendix A	Repealer	22 Ill. Reg. 13522

15) Summary and purpose of the amendments: Section 330.160 has been amended and Section 330.163 has been added in response to Public Act 90-341, which created the Alzheimer's Special Care Disclosure Act and amended the Nursing Home Care Act. A facility that has an Alzheimer's special care unit or center is required to provide information to the Department at the time of licensure renewal concerning the services offered. The information must also be provided to actual or potential clients. Section 330.720 has been amended to implement Public Act 90-366, which amended the Nursing Home Care Act to require a facility to advise a prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. Section 330.911 has been amended to add disqualifying crimes under the Health Care Worker Background Check Act, pursuant to Public Act 90-441. Additional new statutory language states that an employer need not initiate an additional criminal background check for an employee for whom a background check was initiated between January 1, 1996, and January 1, 1998.

16) Information and questions regarding these adopted amendments shall be directed to:
Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-6187
(rules @ idph.state.il.us).

The full text of the adopted amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE
SUBPART A: GENERAL PROVISIONS

Section	
330.110	General Requirements
330.120	Application for License
330.130	Licenses
330.140	Issuance of an Initial License For a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
330.160	Issuance of a Renewal License
330.163	Alzheimer's Special Care Disclosure
330.165	Criteria for Adverse Licensure Actions
330.170	Denial of Initial License
330.175	Denial of Renewal of License
330.180	Revocation of License
330.190	Experimental Program Conflicting With Requirements
330.200	Inspections, Surveys, Evaluations and Consultation
330.210	Filing an Annual Attested Financial Statement
330.220	Information to be Made Available to the Public By the Department
330.230	Information to be Made Available to the Public By the Licensee
330.240	Municipal Licensing
330.250	Ownership Disclosure
330.260	Issuance of Conditional Licenses
330.270	Monitoring and Receivership
330.271	Presentation of Findings
330.272	Determination to Issue a Notice of Violation or Administrative Warning
330.274	Determination of the Level of a Violation
330.276	Notice of Violation
330.277	Administrative Warning
330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties
330.286	Determination to Assess Penalties
330.288	Reduction or Waiver of Penalties
330.290	Quarterly List of Violators
330.300	Alcoholism Treatment Programs In Long-Term Care Facilities
330.310	Department May Survey Facilities Formerly Licensed
330.315	Supported Congregate Living Arrangement Demonstration
330.320	Waivers
330.330	Definitions

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330.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
330.510 Administrator

SUBPART C: POLICIES

Section
330.710 Resident Care Policies
330.720 Admission and Discharge Policies
330.730 Contract Between Resident and Facility
330.740 Residents' Advisory Council
330.750 General Policies
330.760 Personnel Policies
330.765 Initial Health Evaluation for Employees
330.770 Disaster Preparedness
330.780 Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section
330.910 Personnel
330.911 Health Care Worker Background Check
330.913 Nursing and Personal Care Assistants (Repealed)
330.916 Student Interns (Repealed)
330.920 Consultation Services
330.930 Personnel Policies

SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section
330.1110 Medical Care Policies
330.1120 Personal Care
330.1125 Life Sustaining Treatments
330.1130 Communicable Disease Policies
330.1135 Tuberculin Skin Test Procedures
330.1140 Behavior Emergencies (Repealed)
330.1145 Restraints
330.1150 Emergency Use of Physical Restraints
330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs

SUBPART F: RESTORATIVE SERVICES

Section
330.1310 Activity Program
330.1320 Work Programs

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330.1330 Written Policies for Restorative Services

SUBPART G: MEDICATIONS

Section
330.1510 Medication Policies
330.1520 Administration of Medication
330.1530 Labeling and Storage of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
330.1710 Resident Record Requirements
330.1720 Content of Medical Records
330.1730 Records Pertaining to Residents' Property
330.1740 Retention and Transfer of Resident Records
330.1750 Other Resident Record Requirements
330.1760 Retention of Facility Records
330.1770 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
330.1910 Director of Food Services
330.1920 Dietary Staff in Addition to Director of Food Services
330.1930 Hygiene of Dietary Staff
330.1940 Diet Orders
330.1950 Adequacy of Diet and Meal Pattern
330.1960 Therapeutic Diets
330.1970 Scheduling of Meals
330.1980 Menu Planning
330.1990 Food Preparation and Service
330.2000 Food Handling Sanitation
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SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
330.2210 Maintenance
330.2220 Housekeeping
330.2230 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
330.2410 Furnishings
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SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
330.2610
330.2620
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330.2640

Codes
Water Supply
Sewage Disposal
Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW
SHELTERED CARE FACILITIES

Section

330.2810 Applicable Requirements (Repealed)
330.2820 Applicability of These Standards
330.2830 Submission of a Program Narrative
330.2840 New Constructions, Additions, Conversions, and Alterations
330.2850 Preparation and Submission of Drawings and Specifications
330.2860 First Stage Drawings
330.2870 Second Stage Drawings
330.2880 Architectural Drawings
330.2890 Structural Drawings
330.3000 Mechanical Drawings
330.3010 Electrical Drawings
330.3020 Additions to Existing Structures
330.3030 Specifications
330.3040 Building Codes
330.3050 Site
330.3060 General Building Requirements
330.3070 Administration
330.3080 Corridors
330.3090 Bath and Toilet Rooms
330.3100 Living, Dining, Activity Rooms
330.3110 Bedrooms
330.3120 Special Care Room
330.3130 Kitchen
330.3140 Laundry
330.3150 Housekeeping, Service, and Storage
330.3160 Plumbing
330.3170 Heating
330.3180 Electrical

SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED
CARE FACILITIES

Section

330.3310 Applicable Requirements (Repealed)
330.3320 Applicability of These Standards
330.3330 Fire Protection

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330.3340 Fire Department Service and Water Supply
330.3350 General Building Requirements
330.3360 Exit Facilities and Subdivision of Floor Areas
330.3370 Stairways, Vertical Openings, and Doorways
330.3380 Corridors
330.3390 Exit Lights and Directional Signs
330.3400 Hazardous Areas and Combustible Storage
330.3410 Fire Alarm and Detection System
330.3420 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.3430 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR
EXISTING SHELTERED CARE FACILITIES

Section
330.3610 Site
330.3620 General Building Requirements
330.3630 Administration
330.3640 Corridors
330.3650 Bath and Toilet Rooms
330.3660 Living, Dining, and Activity Rooms
330.3670 Bedrooms
330.3680 Special Care Room
330.3690 Kitchen
330.3700 Laundry Room
330.3710 Housekeeping and Service Rooms and Storage Space
330.3720 Plumbing and Heating
330.3730 Electrical

SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING
SHELTERED CARE FACILITIES

Section
330.3910 Fire Protection
330.3920 Fire Department Service and Water Supply
330.3930 Occupancy and Fire Areas
330.3940 Exit Facilities and Subdivision of Floor Areas
330.3950 Stairways, Vertical Openings, and Doorways
330.3960 Exit and Fire Escape Lights and Directional Signs
330.3970 Hazardous Areas and Combustible Storage
330.3980 Fire Alarm and Detection System
330.3990 Fire Extinguishers, Electric Wiring, and Miscellaneous
330.4000 Use of Fire Extinguishers, Evacuation Plan, and Fire Drills

SUBPART Q: RESIDENT'S RIGHTS

Section
330.4210 General

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330.4220 Medical and Personal Care Program
 330.4230 Restraints (Repealed)
 330.4240 Abuse and Neglect
 330.4250 Communication and Visitation
 330.4260 Resident's Funds
 330.4270 Residents' Advisory Council
 330.4280 Contract With Facility
 330.4290 Private Right of Action
 330.4300 Transfer or Discharge
 330.4310 Complaint Procedures
 330.4320 Confidentiality
 330.4330 Facility Implementation

SUBPART R: DAY CARE PROGRAMS

Section
 330.4510 Day Care In Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities
 APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)
 APPENDIX C Forms for Day Care in Long-Term Care Facilities
 APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation

APPENDIX E Guidelines for the Use of Various Drugs
 TABLE A Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg.

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19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2403, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 23 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective JAN 1, 1999.

SUBPART A: GENERAL PROVISIONS

Section 330.160 Issuance of a Renewal License

At least 120 days, but not more than 150 days, prior to license expiration, the licensee shall submit an application for renewal of the license in such form and containing such information as the Department requires. If the application is approved, ~~and the facility is in compliance with all other licensure requirements, and the license shall be renewed for an additional one year or two year period.~~ The renewal application shall not be approved unless the applicant has provided to the Department an accurate disclosure document in accordance with the Alzheimer's Special Care Disclosure Act [220 ILCS 4] and Section 330.163 of this Part, if applicable. (Section 3-115 of the Act)

(Source: Amended JAN 1, 1999 at 23 Ill. Reg. 1085, effective JAN 1, 1999)

Section 330.163 Alzheimer's Special Care Disclosure

A facility that offers to provide care for persons with Alzheimer's disease through an Alzheimer's special care unit or center shall disclose to the Department or to a potential or actual client of the facility the following information in writing on request of the Department or client:

- The form of care or treatment that distinguishes the facility as suitable for persons with Alzheimer's disease.
- The philosophy of the facility concerning the care or treatment of

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- persons with Alzheimer's disease;
- c) The facility's pre-admission, admission, and discharge procedures;
- d) The facility's assessment, care planning, and implementation guidelines in the care and treatment of persons with Alzheimer's disease;
- e) The facility's minimum and maximum staffing ratios, specifying the general licensed health care provider to client ratio and the trainee health care provider to client ratio;
- f) The facility's physical environment;
- g) Activities available to clients at the facility;
- h) The role of family members in the care of clients at the facility; and
- i) The costs of care and treatment under the program or at the center. (Section 15 of the Alzheimer's Special Care Disclosure Act)

(Source: Added at 23 Ill. Reg. 1035.23 effective JAN 15 1990)

SUBPART C: POLICIES

Section 330.720 Admission and Discharge Policies

- a) Admission Restrictions
- 1) No resident determined by professional evaluation to be in need of nursing care shall be admitted to or kept in a sheltered care facility. Neither shall any such resident be kept in a distinct part designated and classified for sheltered care. (a)
 - 2) Homes in Chicago licensed as Residential Care (Half-Way) Homes shall only accept and keep only persons requiring residential care. Residential care is defined as maintenance and oversight. Oversight is defined as general watchfulness and appropriate action to meet the total needs of residents, exclusive of nursing or personal care, as defined in Chapter 136.1 of the "Municipal Code of the City of Chicago". Oversight shall include, at a minimum, social, recreational, and employment opportunities for residents who, by reason of previous physical or mental disability, or in the opinion of a licensed physician, are in need of residential care.
- b) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to, or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.
- c) No resident shall be admitted to or kept in the facility:
- 1) Who is mentally ill, in need of mental treatment, and at risk because--~~due-to-the-mental-illness~~--the person is reasonably expected to self-inflict serious physical harm or to inflict

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- serious physical harm on another person in the near future as a result of the mental illness, as determined by professional evaluation; (a)
- 2) Who is destructive of property or himself; or (b)
 - 3) Who has serious mental or emotional problems based on medical diagnosis.
- d) Children under 18 years of age shall may not be cared for in a facility for adults.
- e) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.
- f) No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Section 330.1130(a)-(c) of this Part. (a)-(b)
- g) A facility shall not admit more residents than the number authorized by the license issued to it. (b)
- h) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended at 23 Ill. Reg. 1035.23 effective JAN 15 1990)

SUBPART D: PERSONNEL

Section 330.911 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 17, 1996, in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474);
 - 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1,

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- 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 384 to 386));
- 4)3† Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1961, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 252, 252.1, and 252.4));
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Section 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1961, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
- 6)4† Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1961, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 55, 56, and 56a to 60b));
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9)5† Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 109, 141, 142, 490, and 491));
- 10)6† Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11)7† Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32

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- and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14)8† Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15)9† Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
- 17)10† Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19)11† Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 84 to 86, 88, and 501));
- 20)12† Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 21)13† Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 48 to 53 and 236 to 238));
- 22)14† Unlawful use of weapons, or aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, and 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, and 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
- 23 Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));
- 26)15† Manufacture, delivery or trafficking of cannabis, delivery of

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- cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705.1, 705.2, 707, and 709)); or
- 27) for Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not knowingly employ or retain any individual after January 1, 1997 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27)(6) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (k) and (m) of this Section. (Section 25 of the Health Care Worker Background Check Act)
- c) For the purpose of this Section:
- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
 - 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27)(6) of this Section.
 - 3) "Direct care" means the provision of nursing care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual.
 - 4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)
- d) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (q) of this Section for a position with duties that involve direct care for residents, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.
- e) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the

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- authorization. (Section 15 of the Health Care Worker Background Check Act)
- f) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of this Section.
- g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:
- 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
 - 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.
 - 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27)(6) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section.
 - 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27)(6) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section.
 - 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27)(6) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section.
- h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
- i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27)(6) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by

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submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

j) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

k) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

l) The Department may accept the results of the fingerprint-based UCIA Criminal Records Check instead of the items required by subsections (k)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

m) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver.

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p) (Section 40(f) of the Health Care Worker Background Check Act)
A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (2)(46) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

1) certified court records;

2) written verification from the State's Attorney's office that prosecuted the conviction at issue;

3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

4) a signed affidavit from the individual concerning the validity of the report; or

5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

q) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

r) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

s) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

t) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall

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retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 the Health Care Worker Background Check Act)

u)† The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 23 Ill. Reg. 1085, effective 1/1/00)

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- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Numbers: Adopted Action:
300.160 Amendments
300.163 New Section
300.620 Amendments
300.661 Amendments
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of amendments: January 15, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposal was Published in Illinois Register: April 3, 1998 - 22 Ill. Reg. 6185
- 10) Has JCAR issued a Statement of Objections to this/these Rules? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first or public comment period: No comments were received.

The following changes were made in response to comments and suggestions of JCAR:

1. In Section 300.160, "[220 ILCS 4]" was added after "ACT".
2. In Section 300.163, "Client" was changed to "client".
3. In Section 300.661(a)(26), the underlined semi-colon was changed to an underlined comma.
4. In Section 300.661(d), last line, "Check" was added after "Background".
5. In Section 300.661(g), "-based" was added after "fingerprint".
6. In Section 300.661(i), "-based" was added after "fingerprint".

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In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? All agreed-upon changes have been made.

- 13) Will these amendments replace emergency amendments currently in effect?
No

- 14) Are there any other Amendments pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
300.330	Amendments	22 Ill. Reg. 13561
300.660	Amendments	22 Ill. Reg. 13561
300.663	Amendments	22 Ill. Reg. 13561
300.1020	Amendments	22 Ill. Reg. 13561
300.1025	Amendments	22 Ill. Reg. 13561
300.1210	Amendments	22 Ill. Reg. 13561
300.1220	Amendments	22 Ill. Reg. 13561
300.1810	Amendments	22 Ill. Reg. 13561
300.2010	Amendments	22 Ill. Reg. 13561
300.2040	Amendments	22 Ill. Reg. 13561
300.2050	Amendments	22 Ill. Reg. 13561
300.2060	Repealer	22 Ill. Reg. 13561
300.2080	Amendments	22 Ill. Reg. 13561
300.Appendix A	Repealer	22 Ill. Reg. 13561
300.Appendix C	Repealer	22 Ill. Reg. 13561

- 15) Summary and purpose of the amendments: Section 300.160 has been amended and Section 300.163 has been added in response to Public Act 90-341, which created the Alzheimer's Special Care Disclosure Act and amended the Nursing Home Care Act. A facility that has an Alzheimer's special care unit or center is required to provide information to the Department at the time of licensure renewal concerning the services offered. The information must also be provided to actual or potential clients. Section 300.620 has been amended to implement Public Act 90-366, which amended the Nursing Home Care Act to require a facility to advise a prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. Section 300.661 has been amended to add disqualifying crimes under the Health Care Worker Background Check Act, pursuant to Public Act 90-441. Additional new statutory language states that an employer need not initiate an additional criminal background check for an employee for whom a background check was initiated between January 1, 1996, and January 1, 1998.

- 16) Information and questions regarding these adopted amendments shall be

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directed to:

Ms. Gail DeVito
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield,
Illinois 62761
217/782-6187
(rules@idph.state.il.us).

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
300.110	General Requirements
300.120	Application for License
300.130	Licensee
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of an Initial License Due to a Change of Ownership
300.160	Issuance of a Renewal License
300.163	Alzheimer's Special Care Disclosure
300.165	Criteria for Adverse Licenseure Actions
300.170	Denial of Initial License
300.175	Denial of Renewal of License
300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Issuance of Conditional Licenses
300.270	Monitor and Receivership
300.271	Presentation of Findings
300.272	Determination to Issue a Notice of Violation or Administrative Warning
300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties
300.288	Reduction or Waiver of Penalties
300.290	Quarterly List of Violators
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department May Survey Facilities Formerly Licensed
300.315	Supported Congregate Living Arrangement Demonstration
300.320	Waivers
300.330	Definitions

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300.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
300.510	Administrator

SUBPART C: POLICIES

Section	
300.610	Resident Care Policies
300.615	Determination of Need Screening
300.620	Admission and Discharge Policies
300.625	Determination of Need Screening
300.630	Contract Between Resident and Facility
300.640	Residents' Advisory Council
300.650	Personnel Policies
300.655	Initial Health Evaluation for Employees
300.660	Nursing Assistants
300.661	Health Care Worker Background Check
300.663	Registry of Certified Nurse Aides
300.665	Student Interns
300.670	Disaster Preparedness
300.680	Restraints
300.682	Nonemergency Use of Physical Restraints
300.684	Emergency Use of Physical Restraints
300.686	Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690	Serious Incidents and Accidents

SUBPART D: PERSONNEL

Section	
300.810	General
300.820	Categories of Personnel
300.830	Consultation Services
300.840	Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section	
300.1010	Medical Care Policies
300.1020	Communicable Disease Policies
300.1025	Tuberculin Skin Test Procedures
300.1030	Medical Emergencies
300.1035	Life-Sustaining Treatments
300.1040	Behavior Emergencies (Repealed)
300.1050	Dental Standards

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SUBPART F: NURSING AND PERSONAL CARE

Section
 300.1210 General Requirements for Nursing and Personal Care
 300.1220 Supervision of Nursing Services
 300.1230 Staffing
 300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section
 300.1410 Activity Program
 300.1420 Specialized Rehabilitation Services
 300.1430 Work Programs

SUBPART H: MEDICATIONS

Section
 300.1610 Medication Policies and Procedures
 300.1620 Conformance With Physician's Orders
 300.1630 Administration of Medication
 300.1640 Labeling and Storage of Medications
 300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section
 300.1810 Resident Record Requirements
 300.1820 Content of Medical Records
 300.1830 Records Pertaining to Residents' Property
 300.1840 Retention and Transfer of Resident Records
 300.1850 Other Resident Record Requirements
 300.1860 Staff Responsibility for Medical Records
 300.1870 Retention of Facility Records
 300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section
 300.2010 Director of Food Services
 300.2020 Dietary Staff in Addition to Director of Food Services
 300.2030 Hygiene of Dietary Staff
 300.2040 Diet Orders
 300.2050 Adequacy of Diet and Meal Pattern
 300.2060 Therapeutic Diets
 300.2070 Scheduling Meals
 300.2080 Menu Planning
 300.2090 Food Preparation and Service

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300.2100 Food Handling Sanitation
 300.2110 Kitchen Equipment, Utensils, and Supplies

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section
 300.2210 Maintenance
 300.2220 Housekeeping
 300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
 300.2410 Furnishings
 300.2420 Equipment and Supplies
 300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section
 300.2610 Codes
 300.2620 Water Supply
 300.2630 Sewage Disposal
 300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section
 300.2810 Applicability of These Standards
 300.2820 Codes and Standards
 300.2830 Preparation of Drawings and Specifications
 300.2840 Site
 300.2850 Administration and Public Areas
 300.2860 Nursing Unit
 300.2870 Dining, Living, Activities Rooms
 300.2880 Therapy and Personal Care
 300.2890 Service Departments
 300.2900 General Building Requirements
 300.2910 Structural
 300.2920 Mechanical Systems
 300.2930 Plumbing Systems
 300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

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300.3010	Applicability
300.3020	Codes and Standards
300.3030	Preparation of Drawings and Specifications
300.3040	Site
300.3050	Administration and Public Areas
300.3060	Nursing Unit
300.3070	Living, Dining, Activities Rooms
300.3080	Treatment and Personal Care
300.3090	Service Departments
300.3100	General Building Requirements
300.3110	Structural
300.3120	Mechanical Systems
300.3130	Plumbing Systems
300.3140	Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

Section	General
300.3210	Medical and Personal Care Program
300.3220	Restraints (Repealed)
300.3230	Abuse and Neglect
300.3240	Communication and Visitation
300.3250	Resident's Funds
300.3260	Residents' Advisory Council
300.3270	Contract With Facility
300.3280	Private Right of Action
300.3290	Transfer or Discharge
300.3300	Complaint Procedures
300.3310	Confidentiality
300.3320	Facility Implementation
300.3330	

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

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TABLE C	Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
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TABLE D	Heat Index Table/Apparent Temperature
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992,

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effective December 14, 1983; amended at 8 Ill. Reg. 155'9, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 17 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103.

SUBPART A: GENERAL PROVISIONS

Section 300.160 Issuance of a Renewal License

At least 120 days, but not more than 150 days, prior to license expiration, the licensee shall submit an application for renewal of the license in such form and containing such information as the Department requires. If the application is approved, and the facility is in compliance with all other licensure requirements, and the facility is in compliance with all other licensure requirements, the license shall be renewed for an additional one year or two year period. The renewal application shall not be approved unless the applicant has provided to the Department an accurate disclosure document in

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accordance with the Alzheimer's Special Care Disclosure Act [220 ILCS 4] and Section 300.163 of this Part, if applicable. (Section 3-115 of the Act)

(Source: Amended at 23 Ill. Reg. 1103, effective JAN 5 1998)

Section 300.163 Alzheimer's Special Care Disclosure

A facility that offers to provide care for persons with Alzheimer's disease through an Alzheimer's special care unit or center shall disclose to the Department or to a potential or actual client of the facility the following information in writing on request of the Department or client:

- The form of care or treatment that distinguishes the facility as suitable for persons with Alzheimer's disease;
- The philosophy of the facility concerning the care or treatment of persons with Alzheimer's disease;
- The facility's pre-admission, admission, and discharge procedures;
- The facility's assessment, care planning, and implementation guidelines in the care and treatment of persons with Alzheimer's disease;
- The facility's minimum and maximum staffing ratios, specifying the general licensed health care provider to client ratio and the trainee health care provider to client ratio;
- The facility's physical environment;
- Activities available to clients at the facility;
- The role of family members in the care of clients at the facility; and
- The costs of care and treatment under the program or at the center. (Section 15 of the Alzheimer's Special Care Disclosure Act)

(Source: Added at 23 Ill. Reg. 1103, effective JAN 5 1998)

SUBPART C: POLICIES

Section 300.620 Admission and Discharge Policies

- No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.††† Each facility shall have a policy concerning the admission of persons needing prenatal and/or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy

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concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house and/or outside resources (see Section 300.3220).

- c) No resident shall be admitted to or kept in the facility:
- 1) Who is mentally ill, in need of mental treatment, and at risk because ~~of the mental illness~~ the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future as a result of the mental illness, as determined by professional evaluation. ~~All persons provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.~~ (B)
 - 2) Who is destructive of property, himself, or others, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. (B)
 - d) No resident shall be admitted to the facility who is developmentally disabled and who needs programming for such conditions, as described in the rules governing intermediate care facilities for the developmentally disabled (77 Ill. Adm. Code 350). Such persons shall only be admitted only to facilities licensed as intermediate care facilities for the developmentally disabled under 77 Ill. Adm. Code 350, or if the person is under 18, in a long-term care facility for persons under 22 years of age that which is licensed under 77 Ill. Adm. Code 390. Persons from 18 to 21 years of age in need of such care may be kept in either facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. (B)
 - e) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.
 - f) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.
 - g) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.
 - h) Persons with communicable, contagious, or infectious diseases may be admitted under the conditions and in accordance with the procedures specified in Section 300.1020(B). (B)
 - i) A facility shall not admit more residents than the number authorized by the license issued to it. (B)
 - j) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended at 23 Ill. Reg. 1103 effective JAN 15 1999)

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Section 300.661 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 1, 1996, in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474);
 - 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5 and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 384 to 386));
 - 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, pars. Sections 252, 252.1, and 252.4));
 - 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-9.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-9.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-9.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
 - 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 55, 56, and 56a to 60b));
 - 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par.

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- 12-7.4.4))
 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1961, ch. 38, par. 12-11.1))
 9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1961, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 109, 141, 142, 490, and 491))
 10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19))
 11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21))
 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95))
 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33))
 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496))
 15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3))
 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286))
 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2))
 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5])
 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 84 to 86, 88, and 501))
 20) Criminal trespass to a residence (Section 19-4 of the Criminal

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- Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4))
 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 48 to 53 and 236 to 238))
 22) Unlawful use of weapons, or aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. Sections 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g))
 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2))
 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354))
 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368))
 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7 and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709)) or
 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1))
 b) The facility shall not knowingly employ or retain any individual after January 1, 1997, in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (k) and (m) of this Section. (Section 25 of the Health Care Worker Background Check Act) For the purpose of this Section:
 c) 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of

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conviction of any of the criminal offenses listed in subsections (a)(1) to (27) ¶167 of this Section.

- 3) "Direct care" means the provision of nursing care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual.

- 4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

- d) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (q) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

- e) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

- f) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) of this Section.

- g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

- 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

- 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.

- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section.

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- 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the applicant's record is cleared based on a fingerprint records check pursuant to subsection (i) of this Section.

- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) ¶167 of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

- h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

- i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) ¶167 of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

- j) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

- k) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and

- 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

- 1) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections

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(k)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)
 m) The Department may grant a waiver based on mitigating circumstances, which may include:

- 1) The age at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant's or employee's criminal history since the conviction;
- 5) The applicant's or employee's work history;
- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

p) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

q) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of

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this State; or
 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

l) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

s)† The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

t)† The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

u)† The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: JAN 15 1999 23 Ill. Reg. 1103, effective

STATE BOARD OF ELECTIONS

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Practice and Procedure

2) Code Citation: 26 Ill. Adm. Code 125

3) Section Number: 125.425
Emergency Action: Amend

4) Statutory Authority: Implements Article 9 of the Illinois Election Code and authorized by Section 9-15(3) of the Illinois Election Code [10 ILCS 5/Art. 9 and 9-15(3)].

5) Effective Date: January 7, 1999

6) If these emergency amendments are to expire before the end of the 150 day period, please specify the date on which they are to expire: The emergency rules will expire on the date of adoption of rules under the ordinary rulemaking process.

7) Date Filed With Index Division: January 7, 1999

8) A copy of the adopted emergency rules, which make no incorporations by reference, are on file in the principal office of the State Board of Elections, 1020 S. Spring Street, Springfield IL, and are available for inspection and copying.

9) Reason for Emergency: P.A. 90-737, effective January 1, 1999 imposes immediate recordkeeping and reporting duties on political committees governed by Article 9 of the Election Code. Violations of reporting deadlines now call for the imposition of civil penalties for first-time offenses. In the absence of immediately effective rules construing general provisions of the amendments made by P.A. 90-737, political committees will not be advised of the new potentials for civil penalties imposed by P.A. 90-737.

10) A Complete Description of the Subjects and Issues Involved: Revises the schedule of civil penalties to conform to the newly-imposed requirements of P.A. 90-737. Deletes procedural requirements for perfecting appeals from administrative decisions.

11) Are there any other proposed amendments pending on this Part? No

12) Statement of Statewide Policy Objectives: The rule proposed neither creates nor expands State mandates for units of local government.

13) Information and Questions Regarding this Emergency Amendment Shall be Directed to:

State Board of Elections

STATE BOARD OF ELECTIONS

NOTICE OF EMERGENCY AMENDMENTS

A. L. Zimmer, General Counsel
James R. Thompson Center
100 West Randolph Street
Suite 14-100
Chicago IL 60601
312/814-6477

The full text of the Emergency Amendments begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF EMERGENCY AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 125

PRACTICE AND PROCEDURE

SUBPART A: DEFINITION AND GENERAL PROVISIONS

Section	
125.5	Applicability
125.10	Definitions
125.15	Board Offices and Business Hours
125.20	Documents Pertaining to Hearings
125.30	Form of Documents
125.40	Service of Documents
125.50	Computation of Time
125.55	Time of Notices
125.60	Appearances
125.70	Non-Legal Assistance
125.75	Parties
125.80	Answer
125.90	Qualifications of Hearing Examiner
125.95	Authority of Hearing Examiner
125.100	Disqualification of Hearing Examiner
125.110	Motions
125.115	Consolidation and Severance of Claims: Additional Parties
125.120	Amendments
125.130	Intervention
125.135	Pre-hearing Conferences
125.140	Settlement Pursuant to Conference
125.150	Record of Conferences
125.160	Continuances
125.170	Order of Proceedings
125.175	Failure of Party to Appear
125.180	Evidence
125.185	Official Notice
125.190	Examination of Adverse Party or Agent
125.192	Participation by Board Members and Staff
125.195	Hostile Witnesses
125.197	Admission of Business Records in Evidence
125.199	Compelling Appearance at Hearing
Section	
125.210	Applicability
125.220	Commencement of Proceeding
125.230	Form of Complaint

SUBPART B: CLOSED PRELIMINARY HEARINGS

Section	
125.210	Applicability
125.220	Commencement of Proceeding
125.230	Form of Complaint

STATE BOARD OF ELECTIONS

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125.235	Board Members as Complainants
125.240	Service of Complaint
125.245	Appointment of Examiner - Order of Closed Preliminary Hearing
125.250	Time of Preliminary Hearing (Repealed)
125.252	Scope of Preliminary Hearing - Procedures - Evidence
125.253	Responsibilities of the General Counsel
125.254	Stipulated Settlement
125.255	Transcript of Preliminary Hearing (Repealed)
125.260	Report of Hearing Examiner (Repealed)
125.262	Board Determination
125.265	Judicial Review
125.270	Record of Preliminary Hearing on Appeal Administrative Review
125.272	Order of Public Hearing
125.275	Time and Conduct of Public Hearing (Repealed)

SUBPART C: PUBLIC ADJUDICATIVE HEARINGS

Section	
125.310	Applicability
125.320	Initiation of Hearing
125.330	Appointment of Hearing Examiner
125.340	Notice of Hearing
125.350	Discovery Procedures
125.360	Subpoenas
125.370	Transcript of Proceedings
125.380	Official Record
125.390	Briefs and Oral Argument

SUBPART D: FINAL ORDERS

Section	
125.410	Hearing Examiners Report
125.420	Order of the Board; Civil Penalties
125.425	Civil Penalty Assessments
EMERGENCY	
125.430	Enforcement Actions in the Circuit Court
125.440	Reconsideration

SUBPART E: INVESTIGATIONS, INQUIRIES AND HEARINGS
PURSUANT TO SECTION 9-18

Section	
125.510	Applicability (Repealed)
125.520	Staff Review and Enforcement of Reporting Requirements
125.530	Compliance Conference
125.540	Staff Initiated Complaint (Repealed)
125.550	Investigations, Inquiries or Hearings

STATE BOARD OF ELECTIONS

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SUBPART F: RULEMAKING AND NON-ADJUDICATIVE HEARINGS

Section

125.610 Applicability
 125.620 Adoption of Rules
 125.630 Non-Adjudicative Hearings
 125.640 Notice of Hearing
 125.650 Conduct of the Hearing
 125.660 Examination of Witness
 125.670 Record
 125.680 Report of Hearing

SUBPART G: ADVISORY OPINIONS

Section

125.710 Advisory Opinions
 125.720 Reconsideration of Advisory Opinions
 125.730 Public Availability of Advisory Opinion
 125.740 Conflict Between this Part and the APA

SUBPART H: MISCELLANEOUS PROVISIONS

Section

125.810 Ex Parte Communications
 125.820 Effective Date
 125.830 Interpretation
 125.840 Severability

AUTHORITY: Implementing and authorized by Sections 1A-8(9), 9-15(3), 9-21 and 9-23 of the Election Code [10 ILCS 5/1A-8(9), 9-15(3), 9-21 and 9-23].

SOURCE: Adopted at 5 Ill. Reg. 12115, effective October 26, 1981; amended at 7 Ill. Reg. 230, effective December 16, 1982; amended at 7 Ill. Reg. 15803 and 15810, effective November 9, 1983; codified at 8 Ill. Reg. 3278; amended at 9 Ill. Reg. 4050, effective March 14, 1985; amended at 14 Ill. Reg. 10832, effective June 22, 1990; amended at 16 Ill. Reg. 6986, effective April 21, 1992; amended at 23 Ill. Reg. 6462, effective May 1, 1995; amended by emergency rulemaking at 23 Ill. Reg. **1122**, effective January 7, 1999, for a maximum of 150 days.

SUBPART D: FINAL ORDERS

Section 125.425 Civil Penalty Assessments

EMERGENCY

- a) As used in this Section, "authorizing candidate" means any candidate who has at any time during the reporting period for the report in question or prior thereto filed with the committee an authorization in

STATE BOARD OF ELECTIONS

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accordance with Section 9-8 of the Election Code.

- b) A report required to be filed within a specified time pursuant to Section 9-10 of the Election Code is delinquent if not received by the Board on or before the due date. Document(s) are deemed received by the Board as of the date date-stamped by Board staff on the document(s) submitted.
- c) If a the report is or continues to be delinquent, ~~and if the political committee is currently under stipulation~~, it is subject to an increasing civil penalty as set out in subsection (e) of this Section ~~provided herein~~, until received by the Board.
- d) When a report required by Section 9-10 of the Election Code is delinquent, the Board will send notice of delinquency to the chairman and the treasurer of each delinquent State state, State state and local, and local political committee together with an Order assessing a civil penalty calculated in accord with subsection (e). The notice Notice of delinquency and Order shall also be sent to any candidate listed by name on that committee's Statement of Organization. The notice of delinquency shall state that the Board has issued a civil penalty that will be final unless the committee shows cause in accord with subsection (f) why the penalty should not be assessed ~~if a delinquent state and local or local political committee is currently under stipulation, such notice shall state that a fine is being assessed for each late day~~.
- e) Upon receipt of a delinquent campaign disclosure report, the Board shall send by certified mail to all delinquent political committees not currently under stipulation, a partially completed stipulation and agreed order for signature. The Board shall file a complaint against any such political committee failing to return such properly-completed stipulation within 30 days of the mailing of the stipulation or within 10 days after the political committee's acceptance of same. If a political committee is currently under stipulation the Board will calculate the initial civil penalty for each day of delinquency as follows:
- 1) If its total receipts, total expenditures, and the balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000 or less, and if the delinquent report is not a semi-annual pre-election report, the political committee shall be assessed a fine of \$25-00 per business day for the first violation of a stipulation, \$50-00 per business day for the second violation, and \$75-00 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late;
- 2) If its total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent

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report was due exceeds \$5000-00, and if the delinquent report is not a semi-annual pre-election report, the political committee shall be assessed a fine of \$50-00 per business day for the first violation--of-a-stipulation, \$100-00 per business day for the second violation, and \$200-00 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late;

3) If its total receipts, total expenditures, and balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000-00 or less and if the delinquent report is a pre-election report, the political committee shall be assessed a fine of \$100-00 per business day for the first violation-of-a-stipulation, \$200-00 per business day for the second violation, and \$300-00 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late; or

4) If its total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent report was due exceeds \$5000-00, and if the delinquent report is a pre-election report, the political committee shall be assessed a fine of \$200-00 per business day for the first violation-of-a-stipulation, \$400-00 per business day for the second violation, and \$600-00 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late; and

5) If its total receipts, total expenditures, and balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000 or less, and if the delinquent report is an A-1 report, the political committee shall be assessed a fine of \$100 per business day for the first violation, \$200 per business day for the second violation, and \$300 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000;

6) If its total receipts, total expenditures, or balance remaining

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at the end of the reporting period for which the delinquent report was due exceeds \$5000, and if the delinquent report is an A-1 report, the political committee shall be assessed a fine of \$200 per business day for the first violation, \$400 per business day for the second violation, and \$600 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000.

2) Mail--to--the--chairman--and--the--treasurer--of--the--political committee,--as--well--as--to--any--candidate--listed--by--name--on--that committee's--current--Statement--of--Organization,--notice--of--the civil--penalty--assessed--against--the--political--committee--and include--therewith:

- A) a statement of the amount of the assessed penalty;
- B) a request for hearing form;
- C) an appeal affidavit form; and
- D) a request for waiver of appearance form.

f) In addition to the civil penalties provided for in Section 9-10(b) of the Election Code, a committee or organization required to report under the Election Code may, for violations of provisions of Article 9 of the Election Code other than delinquent filing, be assessed a civil penalty under the provisions of Section 9-23 of the Election Code and this subsection. The Board will calculate civil penalties in accord with subsection (e). A committee that violates both Section 9-10 of the Election Code and an Order of the Board may be liable for separate penalties for each violation. In cases of alleged violation of an Order of the Board brought under the provisions of Section 9-23 of the Election Code, the Board will mail to each committee or organization alleged to be in violation of a Board order notice of a proposed civil penalty calculated in accord with the terms of this Part, which proposed penalty shall become effective without further proceedings unless the committee or organization receiving the notice contests the proposed civil penalty. A political committee assessed a civil penalty under Section 9-10(b) for being delinquent in filing a required report or that has received notice of a proposed civil penalty for violation of a Board order under Section 9-23 may:

- 1) submit, within 10 90 days after of the mailing of the assessment notice described in subsection (e) of this Section, a request for waiver of appearance and appeal affidavit in the form provided by the Board stating the reasons for requested waiver of appearance and the reasons for the late filing or violation of the Board order, and the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths or be made pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109]; or

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- 2) submit, within 10 30 days after of the mailing of the assessment notice described in subsection (e)(2) of this Section, a request for hearing and appeal affidavit in the form provided by the Board stating the reasons for the late filing or violation of the Board Order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths or be made pursuant to Section 1-109 of the Illinois Code of Civil Procedure [735 ILCS 5/1-109]; or
- 3) pay, within thirty--(30) days after of the mailing of the assessment notice described in subsection (e)(2) of this Section, the civil penalty assessed. If an appeal affidavit is filed, with or without waiver of appearance, the civil penalty shall not be due until the appeal is determined by the Board.
- g) If a political committee or organization required to report under the provisions of Article 9 of the Election Code subject to a civil penalty assessment for the late filing of a campaign disclosure report fails, within the time required, to submit a request for hearing and appeal affidavit, or to make payment in full of the assessed civil penalty, then the Board shall proceed with efforts at collection pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210]. The Board shall not hear an appeal of a civil penalty imposed for delinquent filing or the violation of a Board order if neither a request for waiver of appearance and appeal affidavit nor a request for hearing and appeal affidavit is filed within the time required.
- h) Notwithstanding any provision herein to the contrary, the Board shall stay the enforcement of any civil penalty in cases of first time violation of a filing deadline and shall stay the enforcement of a civil penalty for the violation of a Board order where the committee organization has voluntarily entered into a stipulation admitting the violation and agreeing to the civil penalty. Such stay shall continue only so long as no subsequent violations of Article 9 of the Election Code or of Board orders occur. Violation of Article 9 of the Election Code or a Board order will cause the civil penalty otherwise stayed to become immediately due and may expose the committee or organization to further liability in accord with this Section.
- i) For the purpose of this Section, second and subsequent violations are deemed to occur with reference to the time the first offense event occurs, not when a hearing, if any is required, concerning such first offense event is held. The Board may consider two or more allegations of violations at the same hearing, treating the first as an initial violation and the remaining as subsequent violations, imposing appropriate civil penalties for each.
- h) A request for waiver of appearance and appeal affidavit in the form provided by the Board, timely filed within thirty (30) days of the mailing of the assessment notice described in subsection (e)(2) of

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- this Section with the Board, if denied at the next meeting of the Board occurring at least seven (7) days after receipt of said request and affidavit, will be considered at the then next following regular date, time and location of said meeting. Each said request and affidavit will be considered at the then next following regular meeting upon written notice to the political committee specifying the date, time and location of said meeting. Each said request and affidavit shall be received by the Board to the political committee filing same, with said receipt to contain the date of receipt and the date, time and location of the next regular meeting of the Board occurring at least seven (7) days after the receipt of said request and affidavit. At that following meeting, either the chairman, the treasurer or, an authorizing candidate of the political committee shall be present in person, if such a representative of the political committee is not present, the appeal shall be denied.
- i) A request for hearing and appeal affidavit form timely filed with the Board within thirty (30) days of the mailing of the assessment notice described in subsection (e)(2) of this Section will be considered at the next regular meeting of the Board occurring at least seven (7) days after receipt of said request and affidavit. Each said request and affidavit shall be received by the Board to the political committee filing same, with said receipt to contain the date of receipt and the date, time and location of the next regular meeting of the Board occurring at least seven (7) days after the receipt of said request and affidavit. If neither the chairman, the treasurer nor an authorizing candidate of the political committee is present at the requested hearing, the appeal shall be denied.
- j) If the political committee's appeal is:
- 1) denied by the Board, the Board will require that the civil penalty originally assessed be paid within thirty (30) days after the date of the hearing,
 - 2) if the appeal is accepted by the Board, the Board will waive the civil penalty assessment, provided that the Board may waive the fine only if the political committee can present documentation proving that it did file the report in question on time.
- Documents are deemed received by the Board as of the date date stamped by Board staff on the document(s) submitted.
- k) Any party adversely affected by a final order of the Board may file a written motion to reconsider the order pursuant to Section 125.440. A timely motion for rehearing extends the period in which the respondent may pay the fine, unless the motion is heard and decided within the 30 day period, until the motion is heard and decided. A motion for rehearing does not toll the running of the 30 day period except to the extent that it is necessary to hear and decide the motion.
- i) Any authorizing candidate, treasurer or chairman paying an assessed civil penalty may, upon request to the political committee, be reimbursed such amount from funds of the political committee, if and when such funds become available.

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- m) The Board shall extend the stipulation and agreed order for an additional twelve month period, measured from the date of violation of the stipulation and agreed order, for each committee assessed a late fine.
- n) The civil penalty for a single violation may not exceed \$17,000.00, provided that each report which is not timely and properly filed by a political committee shall be a separate single violation.
- o) No provision of this or any other rule of the State Board of Elections to the contrary notwithstanding, the Board will abate any monetary penalty that would otherwise arise under this Section if the untimely report submitted in violation of subsection (b) of this Section arrives at the office of the State Board of Elections bearing a postmark not less than 5 days prior to the date the report is actually due in the office of the Board.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. effective January 7, 1999, for a maximum of 150 days)

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DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill. Adm. Code 112
- 3) Section Numbers: Emergency Action:
112.2 New Section
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].
- 5) Effective Date of Amendments: January 7, 1999
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable
- 7) Date filed with the Index Department: January 7, 1999
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: With the decision to make this change in policy, it is in the best interests of those affected to put the policy into effect as soon as possible so that they may take advantage of "stopping the clock" if they meet the criteria of this rule.
- 10) A Complete Description of the Subject and Issues: This rule "stops the clock" on the 60-month lifetime time limit for the receipt of benefits under the Temporary Assistance for Needy Families (TANF) program for certain persons who are enrolled in post-secondary education. The client must be enrolled full-time in a program leading to gainful employment in an accredited school while maintaining at least a 2.5 grade point average. For any month the client meets these criteria, that month will not count toward the 60-month limit, whether or not the client is working.
- 11) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
112.1	Amendment	22 Ill. Reg. 13286
112.9	Amendment	22 Ill. Reg. 13286
112.70	Amendment	22 Ill. Reg. 13286
112.72	Amendment	22 Ill. Reg. 13286
112.74	Amendment	22 Ill. Reg. 13286
112.78	Amendment	22 Ill. Reg. 13286
112.79	Amendment	22 Ill. Reg. 13286

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

112.80 Amendment 22 Ill. Reg. 13286
112.255 Repeal 22 Ill. Reg. 16135

- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding these amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield IL 62762
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the emergency amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section	
112.1	Description of the Assistance Program
112.2	Time Limit on Receipt of Benefits for Clients Enrolled in Post-EMERGENCY Secondary Education
112.5	Incorporation by Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
112.8	Caretaker Relative
112.9	Client Cooperation
112.10	Citizenship
112.20	Residence
112.30	Age
112.40	Relationship
112.50	Living Arrangement
112.52	Social Security Numbers
112.54	Assignment of Medical Support Rights
112.60	Basis of Eligibility
112.61	Death of a Parent (Repealed)
112.62	Incapacity of a Parent (Repealed)
112.63	Continued Absence of a Parent (Repealed)
112.64	Unemployment of the Parent (Repealed)
112.65	Responsibility and Services Plan
112.66	Alcohol and Substance Abuse Treatment
112.67	Restriction in Payment to Households Headed by a Minor Parent
112.68	School Attendance Initiative
112.69	Felons and Violators of Parole or Probation

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section	
112.70	Employment and Work Activity Requirements
112.71	Individuals Exempt from TANF Employment and Work Activity Requirements
112.72	Participation/Cooperation Requirements
112.73	Adolescent Parent Program (Repealed)
112.74	Responsibility and Services Plan
112.75	Teen Parent Personal Responsibility Plan (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

112.76 TANF Orientation
 112.77 Reconciliation and Fair Hearings
 112.78 TANF Employment and Work Activities
 112.79 Sanctions
 112.80 Good Cause for Failure to Comply with TANF Participation Requirements
 112.81 Responsible Relative Eligibility for JOBS (Repealed)
 112.82 Supportive Services
 112.83 Teen Parent Services
 112.84 Work Experience Evaluation Project (Repealed)
 112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section
 112.86 Project Advance (Repealed)
 112.87 Project Advance Experimental and Control Groups (Repealed)
 112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
 112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
 112.90 Project Advance Sanctions (Repealed)
 112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
 112.93 Individuals Exempt From Project Advance (Repealed)
 112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section
 112.98

Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section
 112.100 Unearned Income
 112.101 Unearned Income of Stepparent or Parent
 112.105 Budgeting Unearned Income
 112.106 Budgeting Unearned Income of Applicants Employed On Date of Application And/Or Date Of Decision
 112.107 Initial Receipt of Unearned Income
 112.108 Termination of Unearned Income
 112.110 Exempt Unearned Income
 112.115 Education Benefits
 112.120 Incentive Allowances
 112.125 Unearned Income In-kind
 112.126 Earmarked Income
 112.127 Lump-Sum Payments
 112.128 Protected Income (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

112.130 Earned Income
 112.131 Earned Income Tax Credit
 112.132 Budgeting Earned Income
 112.133 Budgeting Earned Income of Employed Applicants
 112.134 Initial Employment
 112.135 Budgeting Earned Income For Contractual Employees
 112.136 Budgeting Earned Income For Non-Contractual School Employees
 112.137 Termination of Employment
 112.138 Transitional Payments (Repealed)
 112.140 Exempt Earned Income
 112.141 Earned Income Exemption
 112.142 Exclusion From Earned Income Exemption
 112.143 Recognized Employment Expenses
 112.144 Income from Work-Study and Training Programs
 112.145 Earned Income From Self-Employment
 112.146 Earned Income From Roomer and Boarder
 112.147 Income From Rental Property
 112.148 Payments from the Illinois Department of Children and Family Services
 112.149 Earned Income In-Kind
 112.150 Assets
 112.151 Exempt Assets
 112.152 Asset Disregards
 112.153 Deferral of Consideration of Assets
 112.154 Property Transfers (Repealed)
 112.155 Income Limit

SUBPART H: PAYMENT AMOUNTS

Section
 112.250 Grant Levels
 112.251 Payment Levels
 112.252 Payment Levels in Group I Counties
 112.253 Payment Levels in Group II Counties
 112.254 Payment Levels in Group III Counties
 112.255 Limitation on Amount of TANF Assistance to Recipients from Other States

SUBPART I: OTHER PROVISIONS

Section
 112.300 Persons Who May Be Included in the Assistance Unit
 112.301 Presumptive Eligibility
 112.302 Reporting Requirements for Clients with Earnings
 112.303 Retrospective Budgeting
 112.304 Budgeting Schedule
 112.305 Strikers
 112.306 Foster Care Program
 112.307 Responsibility of Sponsors of Non-Citizens Entering the County Prior

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NOTICE OF EMERGENCY AMENDMENTS

- to 8/22/96
- 112.308 Responsibility of Sponsors of Non-Citizens Entering the Country on or After 8/22/96
- 112.309 Institutional Status
- 112.310 Child Care for Representative Payees
- 112.315 Young Parent Program (Renumbered)
- 112.320 Redetermination of Eligibility
- 112.330 Extension of Medical Assistance Due to Increased Income from Employment
- 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
- 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
- 112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

SUBPART J: CHILD CARE

- Section
- 112.350 Child Care (Repealed)
- 112.352 Child Care Eligibility (Repealed)
- 112.354 Qualified Provider (Repealed)
- 112.356 Notification of Available Services (Repealed)
- 112.358 Participant Rights and Responsibilities (Repealed)
- 112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
- 112.364 Rates of Payment for Child Care (Repealed)
- 112.366 Method of Providing Child Care (Repealed)
- 112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

- Section
- 112.400 Transitional Child Care Eligibility (Repealed)
- 112.404 Duration of Eligibility for Transitional Child Care (Repealed)
- 112.406 Loss of Eligibility for Transitional Child Care (Repealed)
- 112.408 Qualified Child Care Providers (Repealed)
- 112.410 Notification of Available Services (Repealed)
- 112.412 Participant Rights and Responsibilities (Repealed)
- 112.414 Child Care Overpayments and Recoveries (Repealed)
- 112.416 Fees for Service for Transitional Child Care (Repealed)
- 112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134,

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effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted

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and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 9, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective

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August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg.

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8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 112.2 Time Limit on Receipt of Benefits for Clients Enrolled in EMERGENCY Post-Secondary Education

- a) Months in which the caretaker relative in a Category 04 case is enrolled in Post-Secondary Education that meets the criteria listed in this Section will not count toward the 60-month limit on the receipt of benefits under the Temporary Assistance for Needy Families (TANF)

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program set out in Section 112.1.

- b) In order for a month to not count towards the 60-month limit, the client's educational program must meet the following criteria:

- 1) The program must be considered Post-Secondary Education in an accredited institution and must be approved under Section 112.78(h).
- 2) The client must be in the program full-time, as defined by the institution.
- 3) The client must be attending the program during that particular month. For example, if a client attends school from September through May and then returns to school the next September, the months of June through August will count toward the 60 month limit.
- 4) The client must be maintaining a 2.5 grade point average (on a 4.0 scale). Under this requirement, a client may not take advantage of this Section until the client has attended the school for a sufficient time to receive a grade point average (e.g., for at least a semester). If a client's grade point average falls below 2.5 at any time, the following months will then count towards the 60-month limit and the client will be subject to the work requirements of Section 112.78(h). Once a client's grade point average is again at least 2.5, the client may once again take advantage of this Section.
- c) Clients enrolled in Post-Secondary Education who meet the requirements of this Section do not have to meet the work requirements of Section 112.78(h).
- d) A client may take advantage of this Section for no more than a total of 36 months.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JANUARY 1999 REGULATORY AGENDA

- a) Part (Hearing and Code Citation): The Travel Regulation Council, 80 Ill. Adm. Code 3000

1) Rulemaking:

- A) Description: Update the Federal Register cite.
- B) Statutory Authority: Implementing and authorized by Sections 12, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12, 12-2 and 12-3].
- C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

- D) Date agency anticipates First Notice: Winter, 1999

- E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contract person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

- G) Related rulemakings and other pertinent information: None

- b) Part (Hearing and Code Citation): Standard Procurement Rules, 44 Ill. Adm. Code 1

1) Rulemaking:

- A) Description: To make technical and clarifying changes and to make substantive changes to better reflect the Code and appropriate procurement policy.

- B) Statutory Authority: 30 ILCS 500 and 30 ILCS 525

- C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

- D) Date agency anticipates First Notice: Spring, 1999

- E) Affect on small businesses, small municipalities or not for profit corporations: No particular effect on small business unless a change to Section 1.4545.

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- F) Agency contract person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

- G) Related rulemakings and other pertinent information: None

- c) Part (Hearing and Code Citation): Forms Management, 44 Ill. Adm. Code 4200

1) Rulemaking:

- A) Description: To repeal certain provisions no longer needed.

- B) Statutory Authority: Public Act 90-372.

- C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

- D) Date agency anticipates First Notice: Spring, 1999

- E) Affect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contract person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

- G) Related rulemakings and other pertinent information: None

- d) Part (Hearing and Code Citation): Local Government Health Plan

1) Rulemaking:

- A) Description: Technical corrections.

- B) Statutory Authority: 5 ILCS 375/10(i)

- C) Scheduled meeting/hearing date: No hearings or meetings are scheduled.

- D) Date agency anticipates First Notice: Spring, 1999

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E) Affect on small businesses, small municipalities or not for profit corporations: None.

F) Agency contract person for information:

Stephen W. Seiple, Chief Legal Counsel
Department of Central Management Services
720 Stratton Building
Springfield, Illinois 62706

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF REVENUE

JANUARY 1999 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Income Tax, 86 Ill. Adm. Code 100

1) Rulemaking:

A) Description: New rules will be added to Part 100 concerning the foreign tax credit against the income tax (IITA Section 601(b)(3), the tax credit for Tech Prep Youth Vocational Programs (IITA Section 209), the Dependent Care Assistance Credit (IITA Section 210), the election allowed for partnerships to pass investment credits through to their partners, credit carryovers and the signature requirements for tax return purposes), and the reallocation of items under IITA Section 404.

Part 100 will be amended by the addition of rules defining "financial organization" within the meaning of 35 ILCS 5/1501(a)(8) as amended by P.A. 89-711.

Part 100 will be amended by adding rules and amending existing rules governing the apportionment of business income under 35 ILCS 5/304.

Part 100 will be amended to update the provisions defining unitary business groups.

Part 100 will be amended to provide guidance for determining whether a nonresident has sufficient nexus to be subject to income taxation in Illinois.

Some rules changes will be made to Part 100, as a result of recent legislation. As a result of the adoption of P.A. 88-669, rules with respect to acceptance of substitute W-2s will be proposed. The Department will also amend Part 100 as the result of Federal Public Law 104-95 (prohibiting taxation of nonresidential retirement income). Pursuant to federal P.L. 104-95, Part 100 will be revised to clarify that nonresident retirement income is exempt.

Finally, the Department will continue the updating and correction of Part 100.

B) Statutory Authority: 35 ILCS 5/101 and 35 ILCS 5/1401

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 100 over the next six months. We anticipate filing rulemakings amending

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Part 100 on a regular basis during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs an income tax filing obligation.

F) Agency contact person for information:

Paul S. Caselton
Associate Chief Counsel - Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7055

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Internet Returns, 86 Ill. Adm. Code 106

1) Rulemaking:

A) Description: New sections added to allow for the filing of individual income tax returns via the Internet.

B) Statutory Authority: 35 ILCS 5 and 20 ILCS 2505

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings creating Part 106 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect persons subject to the Income Tax Act.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7054

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G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Property Tax Code, 86 Ill. Adm. Code 110

1) Rulemaking:

A) Description: Adopt new rulemaking on the valuation, assessment and taxation of leasehold estates.

Amend existing rulemaking in Section 110.155 to reflect the new education requirements for Board of Review members in commission counties under P.A. 90-552.

B) Statutory Authority: 35 ILCS 200/9-195, 15-55; 35 ILCS 200/6-30 through 6-32

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing both rulemakings during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: The rulemaking regarding valuation, assessment and taxation of leasehold estates will affect any person or business entity leasing tax exempt real property. The rulemaking amending Section 110.155 will not have any effect on small business, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Jerry Lanter
Property Tax Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Real Estate Transfer Tax, 86 Ill. Adm. Code 120

1) Rulemaking:

DEPARTMENT OF REVENUE

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A) Description: Repeal the Real Estate Transfer Tax regulations in Part 120 of the Illinois Administrative Code. Adopt new Real Estate Transfer regulations in Part 110 of the Illinois Administrative Code which list correct form numbers, clarify departmental policy, and answer common audit problems. This is necessary because the Real Estate Transfer Tax Act, as a separate Act, was repealed and incorporated as the Real Estate Transfer Tax Law in the Property Tax Code.

B) Statutory Authority: 35 ILCS 200/31-1 through 31-70

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing this rulemaking during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect any person or business entity transferring title to real estate unless specifically exempted under Section 31-45 of the Property Tax Code.

F) Agency contact person for information:

Jerry Lanter
Property Tax Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Retailers' Occupation Tax, 86 Ill. Adm. Code 130

1) Rulemaking:

A) Description: Amendments will be made to update the Retailers' Occupation Tax regulations to reflect new statutory developments and decisional law. The Department will also continue the updating of Part 130.

B) Statutory Authority: 35 ILCS 120

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

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D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 130 over the next six months. We anticipate filing rulemakings amending Part 130 on a regular basis during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: Small businesses that sell tangible personal property at retail will be affected by these regulations.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7054

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Service Occupation Tax, 86 Ill. Adm. Code 140

1) Rulemaking:

A) Description: These rules are part of a general update of the Service Occupation Tax regulations to reflect new statutory developments and decisional law.

The Department will also continue the updating of Part 140.

B) Statutory Authority: 35 ILCS 115

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 140 over the next six months. We anticipate filing rulemakings amending Part 140 on a regular basis during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: Servicemen transferring tangible personal property incident to service will be affected by these rules.

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F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7054

G) Related rulemakings and other pertinent information: Noneg) Part(s) (Heading and Code Citation): Use Tax, 86 Ill. Adm. Code 1501) Rulemaking:

A) Description: Amendments will be made to update the Use Tax regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 105

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 150 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Use Tax.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7054

G) Related rulemakings and other pertinent information: Noneh) Part(s) (Heading and Code Citation): Service Use Tax, 86 Ill. Adm. Code 160

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1) Rulemaking:

A) Description: Amendments will be made to update the Service Use Tax regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 110

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 160 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Service Use Tax.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7054

G) Related rulemakings and other pertinent information: Nonei) Part(s) (Heading and Code Citation): Taxpayer Rights, 86 Ill. Adm. Code 2051) Rulemaking:

A) Description: The rules under the Taxpayer's Bill of Rights will be updated.

B) Statutory Authority: 20 ILCS 2520

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 205 over the next six months. We anticipate filing rulemakings amending Part 205 on a regular basis during the next six months of this

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JANUARY 1999 REGULATORY AGENDA

year.

- E) Affect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs an income tax filing obligation.

F) Agency contact person for information:

Paul S. Caselton
Associate Chief Counsel - Income Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7055

- G) Related rulemakings and other pertinent information: None

- j) Part(s) (Heading and Code Citation): Home Rule County Retailers' Occupation Tax, 86 Ill. Adm. Code 220

1) Rulemaking:

- A) Description: Amendments will be made to update the Home Rule County Retailers' Occupation Tax regulations to reflect new statutory developments and decisional law.

- B) Statutory Authority: 55 ILCS 5

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 220 during the next six months of this year.

- E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Home Rule County Retailers' Occupation Tax.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

DEPARTMENT OF REVENUE

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- G) Related rulemakings and other pertinent information: None

- k) Part(s) (Heading and Code Citation): Home Rule County Service Occupation Tax, 86 Ill. Adm. Code 230

1) Rulemaking:

- A) Description: Amendments will be made to update the Home Rule County Service Occupation Tax regulations to reflect new statutory developments and decisional law.

- B) Statutory Authority: 55 ILCS 5

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

- D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 230 during the next six months of this year.

- E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Home Rule County Service Occupation Tax.

- F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

- G) Related rulemakings and other pertinent information: None

- l) Part(s) (Heading and Code Citation): Home Rule Municipal Retailers' Occupation Tax, 86 Ill. Adm. Code 270

1) Rulemaking:

- A) Description: Amendments will be made to update the Home Rule Municipal Retailers' Occupation Tax regulations to reflect new statutory developments and decisional law.

- B) Statutory Authority: 65 ILCS 5

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C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 270 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Home Rule Municipal Retailers' Occupation Tax.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

m) Part(s) and (Heading and Code Citation): Home Rule Municipal Service Occupation Tax, 86 Ill. Adm. Code 280

1) Rulemaking:

A) Description: Amendments will be made to update the Home Rule Municipal Service Occupation Tax regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 65 ILCS 5

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 280 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Home Rule Municipal Service Occupation Tax.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel

DEPARTMENT OF REVENUE

JANUARY 1999 REGULATORY AGENDA

Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citation): Home Rule Municipal Use Tax Imposed by Municipalities Having 2,000,000 or More Inhabitants, 86 Ill. Adm. Code 295

1) Rulemaking:

A) Description: Amendments will be made to update the regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 65 ILCS 5

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 295 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Home Rule Municipal Use Tax.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

o) Part(s) (Heading and Code Citation): Alcoholic Liquor Act, 86 Ill. Adm. Code 420

1) Rulemaking:

A) Description: Amendments will be made to update the Alcoholic

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Liquor Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 235 ILCS 5

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 420 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Liquor Control Act of 1934.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

P) Part(s) (Heading and Code Citation): Pull Tabs and Jar Games Act, 86 Ill. Adm. Code 432

1) Rulemaking:

A) Description: Amendments will be made to update the Pull Tabs and Jar Games Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 230 ILCS 20

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 432 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the

DEPARTMENT OF REVENUE

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Pull Tabs and Jar Games Act.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7054

G) Related rulemakings and other pertinent information: None

Q) Part(s) (Heading and Code Citation): Cigarette Tax Act, 86 Ill. Adm. Code 440

1) Rulemaking:

A) Description: Amendments will be made to update the Cigarette Tax Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 130

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 440 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Cigarette Tax Act.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

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r) Part(s) (Heading and Code Citation): Cigarette Use Tax Act, 86 Ill. Adm. Code 450

1) Rulemaking:

A) Description: Amendments will be made to update the Cigarette Use Tax Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 135

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 450 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Cigarette Use Tax Act.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

s) Part(s) (Heading and Code Citation): Telecommunications Excise Tax, 86 Ill. Adm. Code 495

1) Rulemaking:

A) Description: The rules will be amended to clarify both current statutory provisions and Department policy. Many new technologies have evolved since the Act was established, and the manner in which these technologies are taxed can be clarified in the rules.

B) Statutory Authority: 35 ILCS 630

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

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D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 495 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: Retailers of telecommunications will be affected by these regulations.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7054

G) Related rulemakings and other pertinent information: None

t) Part(s) (Heading and Code Citation): Motor Fuel Tax, 86 Ill. Adm. Code 500

1) Rulemaking:

A) Description: Amendments will be made to update the Motor Fuel Tax regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 505

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above there will be a number of rulemakings proposed with respect to Part 500 over the next six months. We anticipate filing rulemakings amending Part 500 on a regular basis during the second six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: Distributors, suppliers and receivers of motor fuel, as well as persons paying Motor Fuel Use Tax under the International Fuel Tax Agreement.

F) Agency contact person for information:

George Sorensen

DEPARTMENT OF REVENUE

JANUARY 1999 REGULATORY AGENDA

Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

u) Part(s) (Heading and Code Citation): Public Utilities Revenue Act, 86 Ill. Adm. Code 510

1) Rulemaking:

A) Description: Amendments will be made to update the Public Utilities Revenue Act regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 35 ILCS 620

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 510 over the next six months. We anticipate filing rulemakings amending Part 510 on a regular basis during the second six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Public Utilities Revenue Act.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

v) Part(s) (Heading and Code Citation): Special County Retailers' Occupation Tax For Public Safety, 86 Ill. Adm. Code 670

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1) Rulemaking:

A) Description: Amendments will be made to update the Special County Retailers' Occupation Tax For Public Safety regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 55 ILCS 5

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 670 during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Special County Retailers' Occupation Tax For Public Safety.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

w) Part(s) (Heading and Code Citation): Special County Service Occupation Tax For Public Safety, 86 Ill. Adm. Code 680

1) Rulemaking:

A) Description: Amendments will be made to update the Special County Service Occupation Tax For Public Safety regulations to reflect new statutory developments and decisional law.

B) Statutory Authority: 55 ILCS 5

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 680 during the next six months of this year.

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JANUARY 1999 REGULATORY AGENDA

E) Affect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Special County Service Occupation Tax For Public Safety.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

x) Part(s) (Heading and Code Citation): Payment of Taxes by Electronic Funds Transfer, 86 Ill. Adm. Code 750

1) Rulemaking:

A) Description: Amendments will be made to update the Payment of Taxes by Electronic Funds Transfer regulations.

B) Statutory Authority: 35 ILCS 120

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect taxpayers making payment of taxes by electronic funds transfer.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

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y) Part(s) (Heading and Code Citation): 86 Ill. Adm. Code 760, Electronic Filing of Returns or Other Documents

1) Rulemaking:

A) Description: Amendments will be made to update the Electronic Filing of Returns or Other Documents regulations.

B) Statutory Authority:

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect taxpayers making payment of taxes by electronic funds transfer.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

z) Part(s) (Heading and Code Citation): General Rules for All Taxes, 86 Ill. Adm. Code 800

1) Rulemaking:

A) Description: New rulemaking to reflect new statutory developments.

B) Statutory Authority: 20 ILCS 2505/39c-1a

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

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- E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect taxpayers filing tax returns electronically.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

- G) Related rulemakings and other pertinent information: None

aa) Part(s) (Heading and Code Citation): Electricity Excise Tax (new)

1) Rulemaking:

- A) Description: New rulemaking to reflect new statutory developments.

B) Statutory Authority:

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

- E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect electric utilities.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

- G) Related rulemakings and other pertinent information: None

bb) Part(s) and (Heading and Code Citation): Telecommunications Municipal Infrastructure Maintenance Fee (new)

DEPARTMENT OF REVENUE

JANUARY 1999 REGULATORY AGENDA

1) Rulemaking:

- A) Description: New rulemaking to reflect new statutory developments.

B) Statutory Authority: P.A. 90-154

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

- E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect telecommunications retailers.

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

- G) Related rulemakings and other pertinent information: None

cc) Part(s) (Heading and Code Citation): Direct Payment Permit Pilot Program (new)

1) Rulemaking:

- A) Description: New rulemaking to reflect new statutory developments.

B) Statutory Authority: P.A. 90-682

- C) Scheduled meetings/hearing dates: No schedule has been established at this time.

- D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

- E) Affect on small business, small municipalities or not for profit corporations: This rulemaking will affect retailers under the Direct Payment Permit Pilot Program.

DEPARTMENT OF REVENUE

JANUARY 1999 REGULATORY AGENDA

F) Agency contact person for information:

George Sorensen
Associate Chief Counsel
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-6996

G) Related rulemakings and other pertinent information: None

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 1999 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Rules of Practice - Nature and Requirements of Formal Hearings; 80 Ill. Adm. Code 1600.801) Rulemaking:

A) Description: The System plans to propose rulemaking necessary for the issuance of subpoenas at administrative hearings.

B) Statutory Authority: 40 ILCS 5/15-168.1; 40 ILCS 5/15-177

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: Noneb) Part (Heading and Code Citation):1) Rulemaking:

A) Description: The System plans to propose rules establishing the procedure for making estimated payments on annuities until the annuity amount is finalized. This rule will be new and will be contained in a new Section number.

B) Statutory Authority: 40 ILCS 5/15-135; 40 ILCS 5/15-145; 40 ILCS 5/15-177

C) Schedule of meeting/hearing date: No schedule has been established at this time.

STATE UNIVERSITIES RETIREMENT SYSTEM

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D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

c) Part (Heading and Code Citation):

1) Rulemaking:

A) Description: The System plans to propose rules for the procurement of goods and services. This rule is required because of the enactment of P.A. 90-572 which exempts the System from the new Illinois Procurement Code. This rule will be new and will be contained in a new Section number.

B) Statutory Authority: 30 ILCS 500/1-15.100; 40 ILCS 5/15-161; 40 ILCS 5/15-177

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 1999 REGULATORY AGENDA

1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

d) Part (Heading and Code Citation):

1) Rulemaking:

A) Description: The System plans to propose a rule which will set forth guidelines for determining the final rate of earnings of participants. This rule will be new and will be contained in a new Section number.

B) Statutory Authority: 40 ILCS 5/15-112; 40 ILCS 5/15-177

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

e) Part (Heading and Code Citation): Procedures to be followed in Medical Evaluation of Disability Claims, 80 Ill. Adm. Code 1600.70

1) Rulemaking:

A) Description: The System plans to amend the rule which provides

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 1999 REGULATORY AGENDA

for medical evaluation of disability claims. The statutory provision under which this rule was made was revised by P.A. 90-766. The proposed rule change will implement the statutory change.

B) Statutory Authority: 40 ILCS 5/15-150; 40 ILCS 5/15-177

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Rules of Practice - Nature and Requirements of Formal Hearings; 80 Ill. Adm. Code 1600.80

1) Rulemaking:

A) Description: The System plans to amend the rule which provides for the structure of administrative hearings. The System will implement an administrative hearing procedure which is more efficient and timely.

B) Statutory Authority: 40 ILCS 5/15-177

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 1999 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation):

1) Rulemaking:

A) Description: The System plans to propose rules for the implementation of recent legislation creating Qualified Illinois Domestic Relations Orders. This rule will be a new Section.

B) Statutory Authority: 40 ILCS 5/1-119; 40 ILCS 5/15-177

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 1999 REGULATORY AGENDA

h) Part (Heading and Code Citation):1) Rulemaking:

A) Description: The System plans to propose rules for administering the 60-day period new participants have for electing their retirement plan option. This rule will be a new Section.

B) Statutory Authority: 40 ILCS 5/15-177

C) Schedule of meeting/hearing date: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not-for-profit corporations: The amendment will have no effect on small businesses, small municipalities or not-for-profit corporations.

F) Agency contact person for information:

Dan M. Slack
General Counsel
State Universities Retirement System
1901 Fox Drive
P.O. Box 2710
Champaign, IL 61825
(217) 378-8877

G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 5, 1999 through January 11, 1999 and have been scheduled for review by the Committee at its February 9, 1999 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
2/20/99	Department of Human Services, Food Stamps (89 Ill Adm Code 121)	11/20/98 22 Ill Reg 19984	2/9/99

Rules acted upon during the calendar quarter from Issue 1 through Issue 16 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us (Internet address).

PROPOSED

50-2515-1
 50-2520-1
 17-670-4
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 44-1120-4
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 50-2505-1
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